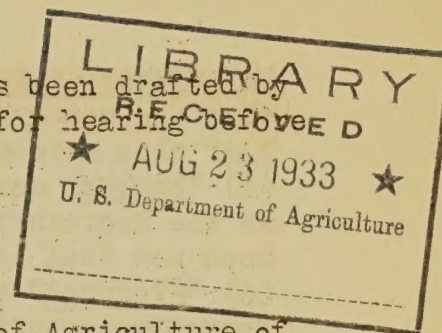


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This proposed, tentative copy of a marketing agreement has been drafted by the Manufacturers of Evaporated Milk pending formal date for hearing before the Secretary of Agriculture, at Washington, D. C.



PROPOSED AGREEMENT

THIS AGREEMENT entered into by and between The Secretary of Agriculture of the United States of America, and each of the manufacturers of evaporated milk signing this agreement, and by and between each of the manufacturers one with the other WITNESSETH THAT.

WHEREAS, Congress by Act of May 12, 1933, has declared that a national economic emergency exists due to the disparity between the price of agricultural and other commodities, and

WHEREAS, the parties hereto wish to enter into a marketing agreement pursuant to section 8, paragraph 2 of said Act, to encourage and aid the orderly marketing of evaporated milk, and to effectuate the declared policy of the Act to readjust prices to producers of fluid milk, and

WHEREAS, the marketing of evaporated milk manufactured and distributed by the manufacturers parties hereto and the distribution thereof affect and enter into both the currents of interstate commerce and the current of intrastate commerce, which are inextricably intermingled;

NOW THEREFORE, in consideration of the premises and of the mutual promises herein contained the parties hereto agree:

1. As used in this agreement, the following words and phrases shall be defined as follows:

- (a) "Manufacturer" and "manufacturers" means and includes individually and collectively as the case may be such manufacturers of evaporated milk as may become parties signatory to this agreement.
- (b) "Secretary" means the Secretary of Agriculture of the United States of America.
- (c) "Evaporated milk" means unsweetened, sterilized, concentrated milk that complies with the standards as now and hereafter approved by the United States Department of Agriculture for evaporated milk and that is packed in hermetically sealed containers.
- (d) "Act" means the Act of Congress entitled "An Act to relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes," approved May 12, 1933.
- (e) "Retail trade" means and includes all distributors and purchasers in so far as they sell to consumers, directly or indirectly.
- (f) "Wholesale Distributors" means all jobbers selling to the retail trade and all persons or corporations operating separately located warehouses supplying five or more retail outlets under the same ownership as the warehouse.
- (g) "The Committee" means the committee provided for in Section 6 of this agreement.

(h) "Managing Agent" means the managing agent appointed by the Committee with the approval of the Secretary as hereinafter provided in paragraph 7 of this agreement.

(i) "Broker" means and includes an agent, duly approved by the Committee or the Secretary as such, who procures or brings about a sale but who does not deal in evaporated milk as a principal.

(j) "Producer" means and includes the farmer, dairyman or bona fide co-operative association of producers from which the evaporated milk manufacturing plant obtains milk for manufacturing purposes.

(k) "Case" means a package containing 48 (14 1/2 oz.) tall cans or 96 (6 oz.) baby cans, or 6 (8 lb.) confectioner size cans. A package containing 48 (6 oz.) baby cans shall be considered one-half case and shall be so regarded in determining brokerage, prices, etc. throughout this contract.

2. The minimum prices at which fluid milk shall be purchased from the producer of milk for manufacture into evaporated milk shall be those determined in the manner set forth in Schedule A which is attached hereto and made a part hereof; Provided the manner of determining said prices as set forth in Schedule A may be changed by agreement between the parties hereto as provided in paragraph 12 of this agreement.

3. The prices at which evaporated milk shall be distributed by the manufacturers shall be those determined in the manner set forth in Schedule B which is attached hereto and made a part hereof. Provided that the prices set forth in Schedule B may be changed by the parties in the manner hereinafter provided in paragraph 12 of this agreement and in said Schedule B.

4. Each manufacturer, party to this agreement agrees to file with The Secretary and with the Committee on or immediately after the effective date of this agreement, a complete list of his or its selling prices and the territories wherein said prices are effective for each size and brand of evaporated milk sold by him or it, and as often as said prices are changed and prior to said change he or it agrees to file new and amended lists of prices, and agrees that thereafter he or it shall make no sales at prices different from those set out in said original list or amended lists of prices, as the case may be, all of which shall conform to the provisions of this contract and the requirements set forth in Schedule B hereof.

5. The trade practice rules set forth in Schedule C attached hereto or as amended as provided in paragraph 12 hereof shall be binding on each of the manufacturers as to all matters therein required on his part to be performed.

6. The following persons shall constitute the Committee under this agreement and said Committee shall be invested with such powers as are hereinafter set forth in this agreement:

Wm. T. Nardin, of St. Louis, Missouri, Chairman
E. G. Annell, of Dundee, Illinois
H. M. Clark, of Manitowoc, Wisconsin
U. M. Dickey, of Seattle, Washington
P. G. Kinzer, of Milwaukee, Wisconsin
Edw. G. McDougall, of Chicago, Illinois
R. B. Page, of Merrill, Wisconsin
Walter Page, of New York, New York

The members of the Committee may be changed and vacancies may be filled in such manner as may be agreed upon by the manufacturers collectively with the approval of the Secretary.

Each member of the Committee shall file with the Secretary on or immediately after the effective date of this agreement his acceptance of his appointment and his postoffice and telegraphic addresses. The Secretary shall address all communications with reference to this agreement to the Chairman, to the managing agent of the Committee, or to each of the members thereof.

7. The Committee with the approval of the Secretary shall appoint a managing agent for the Committee, who shall not be a manufacturer, or be affiliated with or be employed by any manufacturer, and who shall in addition to the duties assigned to him by the Committee from time to time receive the reports of sales of the manufacturers.

8. It shall be the duty of the manufacturers, and each manufacturer hereby agrees to report to the managing agent his or its total sales of evaporated milk in continental United States, in the calendar year of 1932, and thereafter his total of such sales for each calendar month of 1933 and monthly for such further period as he may be party to this agreement. Following the effective date of this agreement, a report for each month shall be filed not later than the fifteenth day of the following month. Said managing agent shall not disclose to the Committee or to any person other than the Secretary the sales of any manufacturer.

9. Each manufacturer agrees with the Secretary and with each of the other manufacturers severally that he will pay to the managing agent for the use of the Committee a share of all expenses incurred by the Committee in carrying out the terms of this agreement and will make such payment on receipt of notice from the managing agent of his share of such expenses. Such share shall be computed from the sales reports submitted by each manufacturer to the managing agent and shall be such proportion of the total expenses of the Committee as his total sales of evaporated milk in the preceding year were to the total sales of evaporated milk by all the manufacturers parties to this agreement in said year.

Failure of any manufacturer to pay his proportion of the expenses shall be reported to the Committee or to the Secretary.

10. If it shall come to the knowledge of any manufacturer that any other manufacturer is violating any of the terms or conditions of this agreement, the party having such knowledge shall notify the Committee of such violation by a written statement containing the charges and all available substantiating evidence. Thereupon or in the event such information shall come to the knowledge of the Committee from any other reliable source it shall be the duty of the Committee to investigate the charges. The Committee may call upon the manufacturer whose transactions are under investigation to furnish a statement of the facts under oath. After due investigation, if it is the opinion of the Committee that the charges are true, it shall notify the member so violating the rules of its findings and request that such violation be discontinued. If the party continues in the violation, the Committee shall notify the Secretary, who may take such action as he

deems necessary including the right of the Secretary to cancel this contract with respect to said party. Provided, that nothing contained in this paragraph shall be construed in derogation of the rights of the Secretary under the Act nor in derogation of the rights of any person to be heard when such right of hearing is granted under the Act or otherwise by law.

11. In aid of any investigation with respect to the charges against any manufacturer, each of the manufacturers agrees that the Committee may designate a reputable firm of public accountants to examine during the usual business hours the books and records of the manufacturer whose practices are under investigation and report upon the matters that shall have been specified in the Committee's direction to such accountants. Said direction to the accountants must specifically set forth the matters upon which a report is required and said accountants shall not reveal to the Committee any other matters whatsoever disclosed by said examination.

12. The manner of determining prices as set forth in Schedule A, the prices as determined under Schedule B, and the trade practice rules as set forth in Schedule C may be changed only by agreement between the Secretary and the Committee. Such changes shall become effective upon written approval of the Secretary and upon such date as he may indicate. Immediately thereafter the managing agent of the Committee shall telegraph to each of the manufacturers simultaneously such changed maximum and minimum prices under Schedule B and such changes in the method for determining prices under Schedule A.

13. The manufacturers shall, as and to the extent required by the Secretary, severally maintain systems of accounting which shall be satisfactory to the Secretary and their respective books and records shall be subject to his examination during the usual hours of business and they shall severally from time to time furnish to the Secretary on and in accordance with forms to be supplied by the Department of Agriculture such information as the Secretary may request.

14. This agreement shall become effective at such time as the Secretary may determine and shall continue in force until the last day of the calendar month following the aforesaid date and thereafter from month to month, except that:

(a) The Secretary may, and upon the request of 75 percent of the manufacturers, addressed to the Secretary shall, by notice in writing sent by registered mail, addressed to the Committee on or before the 20th day of any month, terminate said contract as of the end of such month. Said 75 percent of the manufacturers shall be determined by volume of evaporated milk sold in the previous calendar year and not by number of manufacturers.

(b) This agreement shall in any event terminate whenever Title I of the Act shall cease to be in effect or whenever the President or Congress shall terminate those provisions of the Act which authorize this agreement.

15. The provisions of this agreement shall not apply to any sales made by any manufacturer outside continental United States, and Alaska or to sales made on bids to agencies recognized as such by the Committee for the relief of the unemployed.

16. The benefits, privileges and obligations conferred by and assumed under this agreement as well as the immunities thereunder conferred by virtue of the Act shall cease to exist as to all of the parties hereto upon the termination of this agreement. Upon the cancellation or termination of this agreement with respect to any manufacturer before the final termination of this agreement, the benefits, privileges and immunities created by this agreement shall as to such manufacturer cease and terminate.

17. This agreement has been prepared in 50 identical counterparts. Each manufacturer becoming a party to this agreement shall sign and deposit with the Secretary one of said counterparts and, if a corporation, shall deposit together with said signed counterpart a certified copy of a resolution of the Board of Directors or of the stockholders authorizing such signing and delivery. The Secretary shall sign and deliver to the Chairman of the Committee one of said counterparts and shall endorse thereon the effective date of this agreement. Any of said counterparts so executed shall constitute and shall be accepted as evidence of the terms of this agreement without the production of any or all of said other counterparts.

In whereof this agreement has been signed this day
1933.

(Manufacturer)

Effective date 1933.

Secretary of Agriculture

SCHEDULE "A"

MINIMUM PRICES TO BE PAID FOR MILK SOLD TO PLANTS MANUFACTURING EVAPORATED MILK

1. Minimum prices to be paid to producers for milk used in plants located in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio and Wisconsin, for the manufacture of evaporated milk.

(a) Plants manufacturing evaporated milk only.

The minimum price paid by such plants for milk bought during each month shall be calculated as follows:

The average wholesale price per pound of 92 score butter at Chicago for said month as reported by the United States Department of Agriculture shall be multiplied by six, and to this shall be added 2.4 times the average of weekly prevailing prices of "Twins" during said month on the Wisconsin Cheese Exchange at Plymouth, Wisconsin. This sum shall be divided by seven, and the resulting figure shall be multiplied by 3.5 to which shall be added 30% of the resulting figure which shall be the minimum price per hundred-weight for milk with a butterfat content of 3.5 percent delivered to plants in the above states, during said month. The minimum price of milk with a butterfat content above or below 3.5 percent shall be calculated on a direct ratio basis.

(b) Plants manufacturing evaporated milk and other milk products.

Where plants manufacturing evaporated milk are not able to use all milk received for the production of evaporated milk, they shall pay for such surplus milk the combined butter and cheese value as determined under Section "a" except that the 30% of such value shall not be added. In determining the price returned to the farmers, the value of the two items shall be blended pro rata to the amounts used for the different purposes.

2. Minimum prices to be paid to producers for milk used in plants located in New York, Pennsylvania and Vermont, for the manufacture of evaporated milk.

(a) Plants manufacturing evaporated milk only.

The minimum delivered price paid by such plants for milk bought during each month shall be calculated by the method above outlined under 1 (a), to which resulting price shall be added 7 cents which is an amount approximately equivalent to the per case freight differential on evaporated milk from the territory represented under Section 1 to this territory.

(b) Plants manufacturing evaporated milk and other milk products.

The same method of calculating price shall be followed as is provided under 1 (b), except that N. Y. City butter market and Gouverneur and Cuba, N. Y. cheese values shall be used.

3. Minimum prices to be paid to producers for milk used in plants located in Alabama, Kansas, Kentucky, Maryland, Mississippi, Missouri, Tennessee, Texas, Colorado and Virginia, for the manufacture of evaporated milk.

(a) Plants manufacturing evaporated milk only.

The minimum price paid by such plants for milk bought during each month shall be calculated as follows:

-7-

SCHEDULE "A" (continued)

The average wholesale price per pound of 92 score butter at Chicago for said month, as reported by the United States Department of Agriculture less 2 cents, shall be multiplied by four, and to this result shall be added 30 percent. The resulting price shall be the minimum price per hundredweight for milk with a butterfat content of 4.0 percent delivered to manufacturing plants in the above states during said month. The minimum price of milk with a butterfat content below 4 percent shall be calculated on a direct ratio basis; and for milk containing butterfat above 4 percent, such additional fat shall be paid for on the basis of 2 cents below the Chicago 92 score butter market.

(b) Plants manufacturing evaporated milk and other milk products.

Where plants manufacturing evaporated milk are not able to use all milk received for the production of evaporated milk, the method above outlined under 3 (a) shall be used in calculating the cost of that portion of the total milk received which was converted into evaporated milk. They shall pay for such surplus milk on the basis of 92 score butter at Chicago, less 2 cents. In determining the price return to the farmers the value of the two items shall be blended pro rata to the amounts used for the different purposes.

4. Minimum prices to be paid to producers for milk used in plants located in Arizona, Idaho and Utah, for the manufacture of evaporated milk.

The minimum price paid by such plants for milk bought during each month shall be calculated as follows:

The average wholesale price per pound for 92 score butter at San Francisco for said month as reported by the United States Department of Agriculture shall be multiplied by the butterfat content of the milk purchased. The figure arrived at shall be the minimum price per hundredweight for milk delivered to plants in the above states during said month.

5. Minimum prices to be paid to producers for milk used in plants located in Oregon and Washington, for the manufacture of evaporated milk.

The minimum price paid by such plants for milk bought during each month shall be calculated as follows:

The average wholesale price per pound for 92 score butter at Seattle for said month as reported by the Seattle Wholesale Butter, Cheese and Egg Exchange shall be multiplied by the butterfat content of the milk purchased. The figure arrived at shall be the minimum price per hundredweight for milk delivered to plants in the above states during said month.

6. Minimum prices to be paid to producers for milk used in plants located in California for the manufacture of evaporated milk.

The minimum price paid by such plants for milk bought during each month shall be calculated as follows:

The average wholesale price per pound for 92 score butter at San Francisco for said month as reported by the United States Department of Agriculture - plus three cents (3¢) - shall be multiplied by the butterfat content of the milk purchased. The figure arrived at shall be the minimum price per hundredweight for milk delivered to plants in the above state during said month.

SCHEDULE "B"

SELLING PRICES OF EVAPORATED MILK

1.. The delivered prices to wholesale distributors and recognized commissaries in carload lots for evaporated milk on the effective date of this agreement shall be as follows:

(a) In all states except Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, Washington.

<u>Size of Case</u>	<u>Maximum</u>	<u>Minimum</u>
48 tall (14 1/2 oz.) cans	\$ 2.60	\$ 2.45
6 No. 10 (8 lb.) cans	2.60	2.45
96 baby (6 oz.) cans	2.60	2.45
48 baby (6 oz.) cans	1.30	1.22 1/2

The above prices shall be F.O.B. regularly recognized jobbing points only.

Provided, however, that there shall be overages on account of high freight rates to the following points in the amounts stated:-

New Mexico: All of New Mexico except Dawson and Raton - 10¢ over.
No overage in Dawson and Raton.

Wyoming: Buffalo 10¢ over.

(b) In the states of Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, Washington.

<u>Size of Case</u>	<u>Maximum</u>	<u>Minimum</u>
48 tall (14 1/2 oz.) cans	\$ 2.60	\$2.50
6 No. 10 (8 lbs.) cans	2.60	2.50
96 baby (6 oz.) cans	2.60	2.50
48 baby (6 oz.) cans	1.30	1.25

The above prices shall be F.O.B. regularly recognized jobbing points only.

Provided, however, that there shall be overages on account of high freight rates to the following points in the amounts stated:-

Arizona: All of Arizona except Kingman, Seligman and Yuma - 10¢ over.
Kingman 5¢ over. Seligman 5¢ over. Yuma no overage.

California: Needles 10¢ over. El Portal 10¢ over. Lone Pine 10¢ over.
Alturas 15¢ over. Westwood 15¢ over. Susanville 15¢ over.

Idaho: Clark Fork 10¢ over. Grangeville 10¢ over. Salmon 30¢ over.

SCHEDULE "B" (Continued)

Montana: All of Montana - 10¢ over.

Nevada: Boulder City 10¢ over. Ely 10¢ over. McGill 10¢ over. Reno 10¢ over.
Winnemucca 10¢ over. Tonopah 45¢ over. Goldfield 45¢ over.

Washington: Republic 10¢ over.

(c) Alaska: Maximum and minimum prices shall be \$2.60 and \$2.50 F.O.B. Seattle.

2. On sales of less than carload lots, the manufacturer shall charge a minimum of 5¢ per case over carload prices, except that where two or more purchasers join in purchasing a carload of milk to be shipped to one of the purchasers for distribution to the other without cost to manufacturer the carload price shall prevail. Any and all charges accruing on account of stopover cars shall be charged to the buyers in proportion to their respective interests in the said car.

3. Where manufacturers sell direct to the retail trade, it shall only be done at prices that are in line with the costs and terms available to such retailers from recognized wholesale distributors. Should questionable instances develop the manufacturer involved will, on request, provide the Committee with a list of markets where direct to retailer sales are being made, the names of such customers and also the prices and terms at which these retailers are being sold.

4. Manufacturers who are also retail distributors either directly or indirectly through subsidiaries or affiliated companies shall for the purpose of this rule invoice to their retail stores at prices not less than the minimum prices as determined under Schedule B, and shall sell at retail at not less than said minimum prices, plus 10 percent. Provided, however, that in the event competitors of such retailers are selling at lower prices, then the manufacturer-retailer shall report the said facts to the committee and to the Secretary of Agriculture and if such competitive prices are not within reasonable time corrected, such manufacturer-retailer shall have the right to meet such competitive prices.

5. After this agreement shall have become effective the said prices may from time to time be changed to such other prices as shall be agreed upon between the Secretary and the Committee. The Secretary shall fix the effective date of such changes of prices and the managing agent shall notify the manufacturers thereof as provided in Paragraph 12 of this agreement. No manufacturer shall sell any evaporated milk at a price below the minimum hereby established. No manufacturer shall sell any evaporated milk at a price above the maximum hereby established except where it can be shown to the satisfaction of the Committee that a higher price should equitably be established in order to compensate for high freight cost.

SCHEDULE "C"

TRADE PRACTICE RULES

1. Each manufacturer shall have the right to establish his own selling prices within the limits specified in Schedule B provided, however, that prices at which he will sell must be uniform to all wholesale distributors within the same competitive area.
2. The terms of sale by all manufacturers shall allow not more than 2 percent discount for cash within ten days, and payment for invoices not paid within ten days shall be net.
3. Where milk is sold to a buyer who provides his own labels, an allowance may be made from the manufacturer's list price of not more than 5¢ per case (2 1/2 cents on half cases) on account of labels furnished by the buyer, and in case boxes are furnished by the buyer then only the actual cost of boxes shall be allowed, not to exceed 5¢ per box. No label allowance shall be made on confectioner size.
4. No brokerage allowance shall be made to any purchaser, buying organization, nor to any other person than a broker approved by the Committee or the Secretary and the brokerage shall not exceed 5¢ per case on basis tall size except in cases where it is shown to the satisfaction of the Committee that higher brokerage rates should equitably be allowed. The manufacturer must see that no brokerage paid by him to a broker is passed on to any class of purchaser.
5. No advertising allowance shall be made to any purchaser.
6. (a) No allowance to cover trucking or hauling shall be made to any purchaser, or to any carrier owned or controlled by a purchaser.
(b) No manufacturer shall make deliveries to retail buyers on the basis of a preferential rail freight rate not available to competing distributors.
(c) No manufacturer shall absorb freight on deliveries which are made to retailers for the account of wholesale grocery or distributing organizations.
7. Premium labels unattached to containers and certificates unattached to containers that are redeemable for merchandise or cash shall be deemed a price concession to the retail trade and are prohibited. Where premium labels are attached to the containers there shall be no special premium campaigns in which extra premiums are used or extra value premiums are given. Nor shall there be any redemption value obtainable for coupons distributed in connection with the promotion of a premium label brand which in any instance involves a cost to the manufacturer for premiums or merchandise in excess of fifteen cents per case tall size milk. This includes premium labels redeemed individually or in combination with products of other manufacturers.
8. No gift of merchandise shall be made to any class of purchaser in connection with any sale of evaporated milk and no prices shall be made by the manufacturer in combination with any other product or commodity, nor shall any discount be made upon the price of any other commodity in consideration for the purchase of evaporated milk.

SCHEDULE "C" (Continued)

9. All orders shall be taken by each manufacturer subject to price change prior to date of shipment, and all shipments shall be invoiced at prices announced and in effect on date of shipment.

10. No special rebate or concession shall be made from the manufacturer's announced prices either directly or indirectly, and the following practices are prohibited:

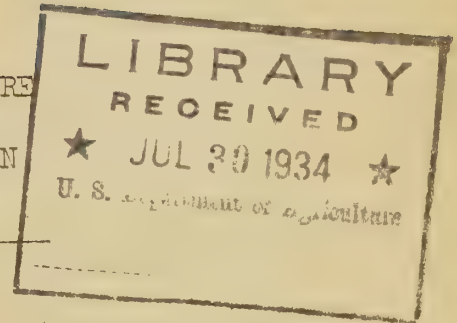
- (a) Purchasing window or shelf space,
- (b) Shipping goods to the buyer on consignment,
- (c) Renting space in distributor's warehouse,
- (d) Gifts to purchasers, or employees of purchasers,
- (e) Applying the carload price to shipments of less than the minimum carload quantities as determined by RR tariffs,
- (f) Releasing milk in less than car quantities from warehouses at below the less than car prices,
- (g) Any method or practice which gives to the purchaser a price advantage over other purchasers directly or indirectly.

11. Manufacturers shall sell evaporated milk in hermetically sealed containers of no other sizes than 6 ounces, 14 1/2 ounces, and 8 pounds, by weight.

12. Upon a decline in the price of evaporated milk the manufacturer may rebate purchasers who are solely wholesale distributors for stocks on hand as follows:

On stock in warehouse of buyer received within the period of 90 days prior to the decline the manufacturer will pay the buyer the amount of the decline on stocks up to but not exceeding 2000 cases. In extending this protection no allowance shall be made for any milk not actually in the wholesale warehouse at the time of the decline. Where the distributor has more than one warehouse, each warehouse shall be regarded as a separate unit.

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION



PROPOSED AMENDED MARKETING AGREEMENT

FOR THE

EVAPORATED MILK INDUSTRY

WITH SCHEDULES

Schedule A

Minimum Prices to be Paid for Milk Sold to Plants
Manufacturing Evaporated Milk

Schedule B

Selling Prices of Evaporated Milk

Schedule C

Trade Practice Rules

This Proposed Amended Marketing Agreement in its present form is proposed as the basis of a public hearing for the above-mentioned industry, and none of the provisions contained herein are to be regarded as having received the approval of the Agricultural Adjustment Administration as applying to this industry.

I hereby certify that this is a true and correct copy of the Proposed Amended Marketing Agreement for the Evaporated Milk Industry, on file in the Office of the Chief Hearing Clerk, United States Department of Agriculture, Agricultural Adjustment Administration.

(Signed) James K. Knudson
Acting Chief Hearing Clerk

Dated: July 14, 1934.
Washington, D.C.

PROPOSED AMENDED MARKETING AGREEMENT
FOR THE EVAPORATED MILK INDUSTRY

ARTICLE I - PURPOSES

The parties to this proposed amended Marketing Agreement for the Evaporated Milk Industry, hereinafter referred to as the Agreement, are the contracting manufacturers of evaporated milk of the United States and the Secretary of Agriculture of the United States.

Whereas, it is the declared policy of Congress as set forth in section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended.

"(1) To establish and maintain such balance between the production and consumption of agricultural commodities and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period, the base period in the case of all agricultural commodities except tobacco being the pre-war period, August 1909 -- July 1914, and in the case of tobacco, the base period being the post-war period, August 1919 -- July 1929;

(2) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets; and

(3) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909 -- July 1914;" and

Whereas, pursuant to the Agricultural Adjustment Act, the parties hereto for the purpose of correcting conditions now obtaining in the manufacture of evaporated milk, and the distribution thereof, and to effectuate the declared policy of the Act, desire to enter into a marketing agreement under the provisions of section 8 (2) of the Act;

Now, therefore, the parties hereto agree as follows:

ARTICLE II - DEFINITIONS

As used in this Agreement the following terms have the following meaning:

1. "Manufacturer" or "manufacturers" mean a person or persons engaged in the manufacture and sale of evaporated milk.
2. "Contracting manufacturer" or "contracting manufacturers" mean a person or persons engaged in the manufacture and sale of evaporated milk who become parties signatory to this Agreement according to the terms thereof.
3. "Secretary" means the Secretary of Agriculture of the United States.
4. "Evaporated milk" means the unsweetened, concentrated, sterilized milk and/ or which contains Vitamin D and which (1) complies with the definition and standard for evaporated milk promulgated by the Secretary of Agriculture, and (2) is packed in hermetically sealed containers.
5. "Act" means the Agricultural Adjustment Act approved May 12, 1933, as amended.
6. "Retail trade" means all distributors of evaporated milk and other purchasers insofar as they sell to or supply evaporated milk to individual or household consumers.
7. "Wholesale distributors" mean all jobbers, selling to the retail trade, and all persons operating one or more warehouses, said warehouse or warehouses being separately located from retail outlets and supplying five or more retail outlets under the same ownership or control as the warehouse or warehouses.
8. "Manufacturers' Committee" means the committee established pursuant to article V of this Agreement.
9. "Managing Agent" means the Managing Agent elected as hereinafter provided in article V, paragraph 1, section 10 of this Agreement.
10. "Broker" means any independent sales agent who performs the services of negotiating the sale of evaporated milk for and on account of the seller, and who is not employed or established by, nor an affiliate or subsidiary of, any trade buyer and whose compensation is a commission or brokerage paid by the seller.
11. "Producer" means the producer of milk or an association

of producers of milk from which evaporated milk manufacturing plants obtain milk for manufacturing purposes.

12. "Producers' Committee" means the committee established pursuant to article VI of this Agreement.

13. "Case" means a package containing forty-eight (48) tall cans (14-1/2 ounces) or ninety-six (96) baby cans (6 ounces) or six (6) confectioner cans (8 pounds). A package containing forty-eight (48) baby cans (6 ounces) shall be considered one-half (1/2) case and shall be so treated for all the purposes of this Agreement.

14. "Person" means individual, partnership, corporation, association, receiver, and/or any other business unit.

15. "Subsidiary" means any person, of or over whom or which, a contracting manufacturer or an affiliate of a contracting manufacturer has, or several contracting manufacturers collectively have, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

16. "Affiliate" means any person and/or any subsidiary thereof, who or which has, either directly or indirectly actual or legal control of or over a contracting manufacturer by stock ownership or in any other manner.

ARTICLE III - PRICES

Section 1. The schedule governing the prices at which, and the terms and conditions under which milk will be purchased from producers by contracting manufacturers for the manufacture of evaporated milk shall be that set forth in schedule A, attached hereto and made a part hereof.

Sec. 2. The schedule governing the prices at which, and the terms and conditions under which, evaporated milk will be distributed and sold by contracting manufacturers will be that set forth in schedule B attached hereto and made a part hereof.

Sec. 3. Each contracting manufacturer agrees to file with the Managing Agent, within ten (10) days after the effective date of this Marketing Agreement, a complete list of his selling prices to wholesale distributors and to the retail trade and the territories wherein said prices are effective for each size and brand of evaporated milk sold by him under his own label or otherwise. As often as said prices are changed, and prior to said change, he agrees to file new and amended lists of prices. He shall make no sales at prices different from those set out in said original list or amended lists

of prices, while the same may be respectively in effect. Every list or amended list of prices will conform to all the provisions of this Agreement.

Sec. 4. The conditions of this Agreement shall not apply to sales of evaporated milk made by one contracting manufacturer to another: Provided, That the contracting manufacturer purchasing such evaporated milk is not a retail distributor or a subsidiary of or affiliated with a retail distributor. However, a monthly report of such sales shall be made to the Managing Agent within fifteen (15) days after the end of each month.

Sec. 5. The provisions of this Agreement shall not apply to any sales made by any contracting manufacturer for delivery outside United States and Alaska or to sales made direct to agencies for the relief of the unemployed recognized as such by the Manufacturers' Committee.

ARTICLE IV - TRADE PRACTICES

Section 1. The trade practice rules set forth in schedule C attached hereto, or as may hereafter be amended, shall be binding on each of the contracting manufacturers.

ARTICLE V - MANUFACTURERS' COMMITTEE

Section 1. A Manufacturers' Committee shall be established consisting of eight (8) members who shall be selected in accordance with the provisions of this article, and shall serve until September 1 of the year following the date of their respective selections and until their respective successors are selected. The initial members and their alternates shall be those named in section 2 of this article. Their respective successors (other than those selected to fill vacancies) shall be selected annually at least thirty (30) days prior to the termination of the term of office of their respective predecessors. No delay in the selection of any successor shall be deemed to invalidate any such selection..

Sec. 2. The initial members of the Manufacturers' Committee and their alternates shall consist of the following persons whose successors shall be selected as indicated herein: Wm. T. Nardin as member, as alternate; E. G. Appell as member, as alternate; H. M. Clark as member, as alternate; U. M. Dickey as member, as alternate; P. G. Kinzer as member, as alternate; Ed. G. McDougall as member, as alternate; R. B. Page as member, as alternate; Walter Page as member, as alternate; whose successors shall each be selected by a general election in which all manufacturers shall be entitled to participate. At any such election,

each manufacturer shall be entitled to cast but one (1) vote on behalf of himself, agents, partners, affiliates, subsidiaries, and representatives, each such vote, however, to be weighted according to the volume of evaporated milk manufactured by such manufacturer during the year next preceding such election.

Sec. 3. The alternates names in section 2 for each member of the Manufacturers' Committee shall have the power to act in the place and stead of such member (1) in his absence, and/or (2) in the event of his removal, resignation, or disqualification for his unexpired term, until a successor has been elected. A like alternate with similar powers may be selected for each successor member by the manufacturers and in the same manner as such successor member is selected.

Sec. 4. To fill any vacancy occasioned by the removal, resignation, or disqualification of any member of the Manufacturers' Committee, as successor for his unexpired term shall be selected within thirty (30) days after such vacancy occurs, by the manufacturers and in the manner indicated in section 2 of this article.

Sec. 5. If any successor is not selected within the applicable period specified in this article, the Secretary may select a person with full power to act as a member to serve until such successor is selected.

Sec. 6. The Manufacturers' Committee shall not perform any of its duties or powers herein granted while there are more than three (3) vacancies in its membership.

Sec. 7. Upon the selection of any member or members of the Manufacturers' Committee, the Managing Agent of said Manufacturers' Committee shall certify to the Secretary the name and address of each such member and of his alternate, if any, and the date or dates of their selection. The members and alternates, if any, so certified to the Secretary, shall be deemed for all purposes to be the duly selected members and alternates of the Manufacturers' Committee: Subject, however, To the right of any interested party to protest such selection in accordance with the applicable Administrative Orders issued by the Secretary.

Sec. 8. The members of the Manufacturers' Committee or of any other committee created hereunder (including successors, alternates, or persons selected by the Secretary) and any agent or employee appointed or employed by the Manufacturers' Committee or by any other committee, shall be subject to removal by the Secretary at any time with or without cause. Each and every order, regulation, decision, determination, or other act of the Manufacturers' Committee or of any other committee, shall be subject to the continuing

right of the Secretary to disapprove of the same at any time; and upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith.

Sec. 9. Members of the Manufacturers' Committee shall serve without compensation, but shall be entitled to expenses necessarily incurred in the performance of their duties hereunder.

Sec. 10. The powers and duties of the Manufacturers' Committee shall include the following:

1. To elect a chairman and a Managing Agent, and from time to time such other officers as it may deem advisable, and to adopt rules and regulations for the performance of its duties under this Agreement.
2. To supervise the performance of this Agreement and to act as intermediary between the Secretary and the manufacturers.
3. To appoint such employees as it deems necessary and to determine the salaries and define the duties of such employees.
4. To appoint and define the duties of additional committees or subcommittees to assist it in the performance of any of its duties and functions hereunder.
5. To investigate suspected violations of this Agreement and to hear and dispose of all questions, disputes, and complaints arising in connection with the performance of this Agreement. If a member of the Manufacturers' Committee shall be an interested party to any complaint or dispute, or a representative of such an interested party, he shall for the purpose of the consideration of such dispute or complaint be disqualified as a member of the Manufacturers' Committee, such disqualification, however, shall not be deemed to create a vacancy in the Manufacturers' Committee within the prohibition of section 6 of this article. An appeal in writing may be taken to the Secretary from any decision of the Manufacturers' Committee by any person aggrieved thereby within ten (10) days after the decision is announced. Pending the decision of any such appeal by the Secretary, the parties involved shall abide by the decision of the Manufacturers' Committee unless the Secretary shall rule otherwise. In the event of an appeal, it shall be the duty of the Manufacturers' Committee to forward to the Secretary its complete record with

regard to the subject matter of such appeal.

6. No manufacturer shall be entitled to participate in the selection of members of the Manufacturers' Committee in accordance with the terms of this article, if he has failed to pay his contribution pursuant to article VII of this Agreement, or pursuant to any license supplementary hereto issued pursuant to section 8 (3) of the Act.

ARTICLE VI - PRODUCERS' COMMITTEE

A Producers' Committee consisting of eight (8) members shall be chosen by the National Cooperative Milk Producers' Federation, and such other producers and producer-agencies not members of said Federation, as may sell milk to the contracting manufacturers subject to such regulations as the Secretary may prescribe. Upon the selection of the Producers' Committee, the Managing Agent shall notify the Secretary of such selection and shall supply him with the names and addresses of the members of said Producers' Committee. Said Producers' Committee may jointly confer with the Manufacturers' Committee with respect to any proposed amendments to schedule A to be recommended to the Secretary.

ARTICLE VII - EXPENSES

Section 1. To carry out the provisions of this Agreement and of any License supplementary thereto issued pursuant to section 8 (3) of the Act, the Manufacturers' Committee is authorized and directed:

1. To incur such reasonable obligations as may be necessary and proper and to meet such obligations out of funds as herein provided.
2. To submit to the Secretary for his approval, subject to such notice, and opportunity for hearing as the Secretary shall prescribe (1) an itemized budget of its estimated expenses for the foregoing purposes and (2) an equitable basis upon which the funds necessary to support such budget shall be contributed by the contracting manufacturers.

Sec. 2. Upon the approval by the Secretary of such budget, each of the contracting manufacturers agrees to contribute to the Manufacturers' Committee his share of the funds to be raised by it in accordance with the basis of contribution submitted to and approved by the Secretary pursuant to subdivision 2 of section 1 of this article.

Sec. 3. The Manufacturers' Committee is authorized and empowered, subject to the prior approval of the Secretary, to

institute legal proceedings in the name of its independent members as a committee, and to take such other steps as may be necessary to collect or enforce payment of funds from persons liable therefor, pursuant to the foregoing sections. Unless otherwise provided in the notice of termination executed by the Secretary, the foregoing power shall continue after the termination of this Agreement with respect to any funds which need to be raised and which are unpaid at the time of such termination. Nothing herein contained shall be construed to be in derogation or modification of the rights of the Secretary at any time to institute legal proceedings or to take such other steps as may be necessary to collect or enforce the payment of any such funds.

Sec. 4. Any funds which the Manufacturers' Committee shall have on hand, or be entitled to receive under this article, upon the termination of this Agreement, over and above any amount necessary to meet outstanding obligations, shall at such time be returned to the manufacturers pro rata in proportion to their contributions made pursuant to this Agreement and/or pursuant to the License which may be issued supplementary hereto pursuant to section 8 (3) of the Act.

ARTICLE VIII - AMENDMENTS

This Agreement or any part thereof including schedules A, B and C may be amended by a vote of two-thirds (2/3) of the Manufacturers' Committee, such amendments shall be effective upon the written approval of the Secretary: Provided, however, That before any such amendment shall be filed with the Secretary for his approval, all the parties to this Agreement shall be notified in writing by the Managing Agent of any such proposed amendment, and shall be allowed ten (10) days to present objections to any such proposed amendment to the Manufacturers' Committee. Provided further, however, That any proposed amendment to schedule A must have the approval of the Producers' Committee. Immediately after any such amendment becomes effective, the Managing Agent of the Manufacturers' Committee shall send written notification thereof to each of the contracting manufacturers.

ARTICLE IX - REPORTS--BOOKS AND RECORDS

Section 1. The contracting manufacturers shall severally from time to time upon the request of the Secretary, furnish him such information on and in accordance with forms of reports to be supplied by him as may be necessary for the purposes of (1) assisting the Secretary in the furtherance of his powers and duties with respect to this Agreement and/or (2) enabling the Secretary to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Agreement will be effectuated,

such reports to be verified under oath. The Secretary's determination as to the necessity of and justification for the making of such reports and the information called for thereby, shall be final and conclusive.

Sec. 2. The contracting manufacturers also severally agree that for the same purpose and/or to enable the Secretary to verify the information furnished him on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries shall during the usual hours of business be subject to the examination of the Secretary. The Secretary's determination as to the necessity of and justification for such examination, shall be final and conclusive.

Sec. 3. The contracting manufacturers and their respective affiliates and subsidiaries shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial condition thereof.

Sec. 4. All information furnished the Secretary pursuant to this article shall remain confidential in accordance with the applicable general regulations of the Agricultural Adjustment Administration.

Sec. 5. To enable the Manufacturers' Committee to perform its duties hereunder and to make this Agreement effective, each contracting manufacturer shall promptly furnish when and in such form, and substantiated in such manner as the Manufacturers' Committee may prescribe, such information as the Manufacturers' Committee may require to enable it to perform its functions under this Agreement. Such reports shall be confidential and shall not be disclosed by the Manufacturers' Committee except to the Secretary.

ARTICLE X - MISCELLANEOUS

Section 1. Contracting manufacturers hereby apply for and consent to licensing by the Secretary. Such license shall be in accordance with applicable regulations heretofore and hereafter prescribed by the Secretary and approved by the President, and shall be subject to the rights and powers of the Secretary, from time to time, to modify or amend any license issued pursuant to the foregoing.

Sec. 2. The Secretary may, by a designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division of the Department of Agriculture, to act as his agent or agency in connection with any of the provisions of this Agreement.

Sec. 3. This Agreement confers no exemption from the antitrust laws of the United States and does not make lawful any acts otherwise unlawful, excepting as provided in the Act to the extent necessary to accomplish the purposes of this Agreement.

Sec. 4. This Agreement shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the following ways:

1. The Secretary may at any time terminate this Agreement, as to all parties hereto, by giving at least one (1) day's notice by means of a press release or in any other manner which the Secretary may determine.
2. The Secretary may at any time terminate this Agreement, as to any party signatory hereto, by giving at least one (1) day's notice by depositing the same in the mail addressed to such party at his last known address.
3. The Secretary shall terminate this Agreement upon the request of seventy-five (75) percent of the contracting manufacturers, such percentage to be measured by the volume of evaporated milk sold during the previous calendar year, by giving notice in the same manner as provided in subdivision 1, section 4 of this article.
4. This Agreement shall in any event terminate whenever the provisions of the Act authorizing it, cease to be in effect.

Sec. 5. The benefits, privileges, and immunities conferred by virtue of this Agreement shall cease upon its termination, except with respect to acts done under and during the existence of this Agreement, and the benefits, privileges, and immunities conferred by this Agreement upon any party signatory hereto shall cease upon its termination as to such party, except with respect to acts done under and during the existence of this Agreement.

Sec. 6. This Agreement may be executed in multiple counterparts, and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

Sec. 7. After this Agreement first takes effect any manufacturer of evaporated milk may become a party to this Agreement if a counterpart thereof is executed by him and by the Secretary. This Agreement shall take effect as to such new contracting party at such time as the Secretary may declare above his signature attached to such counterpart, and the benefits, privileges and immunities conferred by this Agreement shall then be effective as to such new contracting party.

Sec. 8. Nothing contained in this Agreement is or shall be construed to be in derogation or modification of the rights of the Secretary or of the United States (1) to exercise any powers granted by the Act or otherwise, and/or (2) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

Sec. 9. If any provision of this Agreement is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this Agreement and/or the applicability of any provision of this Agreement to any other person, circumstance or thing shall not be affected thereby.

In witness whereof, the contracting parties acting under the provisions of the Agricultural Adjustment Act, as amended, for the purposes and subject to the limitations therein contained, and not otherwise, have hereunto set their respective hands and seals.

(SEAL)

By: _____

Attest: _____

Whereas, it is provided by section 8 of the Act as follows:

"In order to effectuate the declared policy, the Secretary of Agriculture shall have power * * * (2) After due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, in the current of or in competition with, or so as to burden, obstruct, or in any way affect, interstate or foreign commerce. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: Provided, That no such agreement shall remain in force after the termination of this Act."

And --

Whereas, due notice and opportunity for hearing to interested parties has been given pursuant to the provisions of the Act, and the regulations issued thereunder; and

Whereas, the Secretary finds (1) that the contracting manufacturers are engaged in the marketing and distribution of evaporated milk in the current of and in competition with, and so as to burden, obstruct, and affect, interstate and foreign commerce; and (2) that the marketing and distribution of such evaporated milk in intrastate commerce is inextricably intermingled with the marketing and distribution of such evaporated milk in interstate and foreign commerce; and

Whereas, it appears, after due consideration, that this Agreement will tend to effectuate the policy of Congress declared in section 2 of the Act, as hereinbefore in this Agreement set forth;

Now, therefore, _____, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act as amended, for the purposes and within the limitations therein contained, and not otherwise, does hereby execute this Agreement, as amended, in duplicate, under his hand and the official seal of the Department of Agriculture, in the city of Washington, District of Columbia, on this _____ day of _____ 1934, and pursuant to the provisions hereof, declare this Agreement as amended to be effective on and after 11:59 p.m., eastern standard time, _____, 1934.

(SEAL)

Secretary of Agriculture

SCHEDULE A

MINIMUM PRICES TO BE PAID FOR MILK SOLD TO PLANTS
MANUFACTURING EVAPORATED MILK

Section 1. Minimum prices to be paid to producers for milk used in plants for the manufacture of evaporated milk located in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, and Wisconsin.

1. The minimum price to be paid for milk delivered to such evaporated milk plants each month and used for the production of evaporated milk shall be calculated as follows:

The average wholesale price per pound of 92 score butter at Chicago for said month as reported by the United States Department of Agriculture shall be multiplied by six (6) and to this shall be added two and four-tenths (2.4) times the average of weekly prevailing prices per pound of "Twins" during said month on the Wisconsin Cheese Exchange at Plymouth, Wisconsin. This sum shall be divided by seven (7) and the resulting figure shall be multiplied by three and five-tenths (3.5). (The figure thus resulting being termed in this schedule A the "combined butter-and-cheese value.") To the combined butter-and-cheese value shall be added thirty (30) percent thereof, and the resulting figure shall be the minimum price per hundred (100) pounds for milk with a butterfat content of three and five-tenths (3.5) percent delivered to plants in the above States during such months. The minimum price paid for milk with a butterfat content below three and five-tenths (3.5) percent and up to four (4) percent shall be calculated on a direct ratio basis. For milk with a butterfat content above four (4) percent, the minimum price shall be that for milk of four (4) percent calculated on the direct ratio basis plus an extra payment for butterfat in excess of four (4) percent on the basis of the average wholesale price per pound of 92 score butter at Chicago for said months as reported by the United States Department of Agriculture.

2. Where plants manufacturing evaporated milk are not able to use for the production of evaporated milk all milk received, they shall pay for the milk not so used as follows: The combined butter-and-cheese value plus any excess of (1) the value at which any milk not so used is disposed of (calculated at the prevailing price

paid for milk purchased for such depositions) over (2) the combined butter-and-cheese value. In determining the price paid to the producers during any month, the price paid for milk used for the production of evaporated milk and the price paid for milk not so used shall be blended, pro rata, to the amounts used by the plant, during said month, of milk used for the production of evaporated milk and of milk not so used.

Sec. 2. Minimum prices to be paid to producers for milk used in plants for the manufacture of evaporated milk located in New York, Pennsylvania, and Vermont.

1. The minimum price to be paid for milk delivered to such evaporated milk plants during each month and used for the production of evaporated milk shall be calculated as follows:

Calculate such price as if it were delivered to plants in the territory described under subdivision 1, section 1 and add seven (7) cents per hundred (100) pounds of milk, which is an amount approximately equivalent to the per case freight differential on evaporated milk from the territory represented under section 1 to this territory.

2. Where plants manufacturing evaporated milk are not able to use for the production of evaporated milk all milk received, they shall pay for the milk not so used as follows: A combined butter-and-cheese value calculated in the same manner as set forth in subdivision 1, section 1, except that New York City butter quotations and Gouverneur and Cuba, New York, cheese quotations shall be used in place of the Chicago butter quotations and Plymouth cheese quotations set forth in said subdivision 1, section 1, to which shall be added any excess of (1) the value at which any milk not used is disposed of (calculated at the prevailing price paid for milk purchased for such dispositions) over (2) the combined butter-and-cheese value (based on New York City butter and Gouverneur and Cuba cheese quotations as aforesaid).

Sec. 3. Minimum prices to be paid to producers for milk used in plants for the manufacture of evaporated milk located in Alabama, Kansas, Kentucky, Maryland, Mississippi, Missouri, Tennessee, Texas, Colorado, and Virginia.

1. The minimum price to be paid for milk delivered to such evaporated milk plants during each month and used for the production of evaporated milk shall be calculated as follows:

The average wholesale price per pound of 92 score butter at Chicago for said month as reported by the United States Department of Agriculture from which shall be deducted two (2) cents (the resulting figure being termed in this schedule A "flat-butterfat value"). The flat-butterfat value shall be multiplied by four (4) and to the figure thus obtained shall be added thirty (30) percent, which resulting figure shall be the minimum price for one hundred (100) pounds of milk with a butterfat content of four (4) percent delivered to plants in the above States during such month. The minimum price paid for milk with a butterfat content below four (4) percent shall be calculated on a direct ratio basis. For milk with a butterfat content above four (4) percent the minimum price shall be that for milk of four (4) percent butterfat content plus an extra payment for butterfat in excess of four (4) percent on the basis of the flat-butterfat value.

2. Where plants manufacturing evaporated milk are not able to use for the production of evaporated milk all milk received, they shall pay for the milk not so used as follows: The flat-butterfat value plus any excess of (1) the value at which any milk not so used is disposed of (calculated at the prevailing price paid for milk purchased for such dispositions) over (2) the flat-butterfat value. In determining the price paid to the producers during any month, the price for milk used for the production of evaporated milk and the price paid for milk not so used shall be blended pro rata to the amounts used by the plant during said month of milk used for the production of evaporated milk and of milk not so used.

Sec. 4. Minimum prices to be paid to producers for milk used in plants for the manufacture of evaporated milk located in Arizona, Idaho, and Utah.

The minimum price to be paid for milk delivered to such evaporated milk plants during each month and used for the production of evaporated milk shall be calculated as follows: The average wholesale price per pound for 92 score butter at San Francisco for said month as reported by the United States Department of Agriculture shall be multiplied by the butterfat content of the milk purchased. The figure arrived at shall be the minimum price per hundred (100) pounds for milk delivered to plants in the above States during said month.

Sec. 5. Minimum prices to be paid to producers for milk used in plants for the manufacture of evaporated milk located in Oregon and Washington.

The minimum price to be paid for milk delivered to such evaporated milk plants during each month and used for the production of evaporated milk shall be calculated as follows: The average wholesale price per pound for 92 score butter at Seattle for said month as reported by the Seattle Wholesalt Butter, Cheese, and Egg Exchange shall be multiplied by the butterfat content of the milk purchased. The figure arrived at shall be the minimum price per hundred (100) pounds for milk delivered to plants in the above States during said month.

Sec. 6. Minimum prices to be paid to producers for milk used in plants for the manufacture of evaporated milk located in California.

The minimum price to be paid for milk delivered to such evaporated milk plants during each month and used for the production of evaporated milk shall be calculated as follows: The average wholesale price per pound for 92 score butter at San Francisco for said month as reported by the United States Department of Agriculture plus three (3) cents shall be multiplied by the butterfat content of the milk purchased. The figure arrived at shall be the minimum price per hundred (100) pounds for milk delivered to plants in the above State during said month.

SCHEDULE B

SELLING PRICES OF EVAPORATED MILK

Section 1. The delivered prices to wholesale distributors and commissaries in carload lots (as governed by the established tariffs of the rail carriers in the different freight zones) for evaporated milk on the effective date of this Agreement, shall be as follows:

1. In the States of Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Colorado, New Mexico; and Armstrong, Allegheny, Beaver, Butler, Fayette, Greene, Mercer, Lawrence, Washington, Bedford, Blair, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Indiana, Jefferson, Somerset, Venango, and Westmoreland counties in the State of Pennsylvania and the city of Johnstown in Cambria County, Pennsylvania, Wyoming, and Allegany and Carrett, Maryland.

Size of Case	Minimum
48 tall (14-1/2-ounce) cans	\$2.45
6 No. 10 (8-pound) cans	2.45
96 baby (6-ounce) cans	2.45
48 baby (6-ounce) cans	1.22-1/2

The above prices shall be f.o.b. jobbing points: Provided, however, That there shall be overages on account of high freight rates to the following points and to such other points as the Manufacturers' Committee may from time to time determine in the amounts stated:

New Mexico -- All of New Mexico except Dawson and Raton, ten (10) cents over. No overage in Dawson and Raton.

Wyoming -- Buffalo, ten (10) cents over.

2. In the District of Columbia and the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, and all of the States of Pennsylvania and Maryland are not included in the subsection 1, section 1 hereof --

Size of Case		Minimum
48 tall	(14-1/2-ounce) cans	\$2.55
6 No. 10	(8-pound) cans	2.55
96 baby	(6-ounce) cans	2.55
48 baby	(6-ounce) cans	1.27-1/2

The above prices shall be f.o.b. jobbing points.

3. In the States of Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, and Washington.

Size of Case		Minimum
48 tall	(14-1/2-ounce) cans	\$2.50
6 No. 10	(8-pound) cans	2.50
96 baby	(6-ounce) cans	2.50
48 baby	(6-ounce) cans	1.25

The above prices shall be f.o.b. jobbing points.

Provided, however, That there shall be overage on account of high freight rates to the following points, and to such other points as the Manufacturers' Committee may from time to time determine, to the amounts stated:

Arizona -- All of Arizona except Kingman, Seligman and Yuma, ten (10) cents over. Kingman, five (5) cents over. Seligman, five (5) cents over. Yuma, no overage.

California -- Needles, ten (10) cents over. El Portal, ten (10) cents over. Lone Pine, ten (10) cents over. Alturas, fifteen (15) cents over. Westwood, fifteen (15) cents over. Susanville, fifteen (15) cents over.

Idaho -- Clark Fork, ten (10) cents over. Grangeville, ten (10) cents over. Salmon, thirty (30) cents over.

Montana -- All of Montana, ten (10) cents over.

Nevada -- Boulder City, ten (10) cents over. Ely, ten (10) cents over. McGill, ten (10) cents over. Winnemucca, ten (10) cents over. Tonopah, forty-five (45) cents over. Goldfield, forty-five (45) cents over. Las Vegas, five (5) cents over.

Washington -- Republic, ten (10) cents over.

4. Alaska -- Minimum prices shall be two dollars and fifty cents (2.50) f.o.b. any United States Pacific Coast ports.

Sec. 2. The foregoing price schedule is without prejudice to the right of any contracting manufacturer who asserts that such minimum prices are in excess of the prices necessary to accomplish the purposes set forth in article I of this Agreement, to a hearing on the question of a modification or amendment to this Agreement, in accordance with the applicable general regulations, Agricultural Adjustment Administration. Such contracting manufacturer shall not be relieved of the obligation to adhere to the minimum prices herein provided, unless and/or until the Secretary after such hearing has ruled otherwise.

Sec. 3. On sales of less than carload lots, each contracting manufacturer shall charge a minimum of five (5) cents per case over carload prices, except that where two (2) or more purchasers join in purchasing a carload of milk to be shipped to one (1) of the purchasers or the warehousemen, the carload price shall prevail. Any and all charges accruing on account of stopover cars shall be charged to the buyers in proportion to their respective interests in said car.

Sec. 4. Where contracting manufacturers sell direct to the retail trade, it shall be done only at prices that are in line with the prices and terms available to such retailers from recognized wholesale distributors. The contracting manufacturer involved shall, on request, provide the Manufacturers' Committee with a list of markets where direct-to-retailer-sales are being made, the names of such customers, and also the prices and terms at which these retailers are being sold. Any contracting manufacturer who is selling direct to the retail trade may request the Secretary to modify the provisions of this paragraph with respect to such contracting manufacturer and the Secretary may, in his discretion, and upon such request, after due notice and opportunity for hearing to interested parties, modify such provisions accordingly, provided such contracting manufacturer is in other respects complying with the terms of this Agreement.

Sec. 5. Contracting manufacturers who are also retail distributors either directly or indirectly through subsidiaries or affiliated companies shall, for the purpose of this rule, invoice to their wholesale warehouse at prices not less than the minimum prices as determined under schedule B.

SCHEDULE C

TRADE PRACTICE RULES

Section 1. 1. No contracting manufacturer shall sell any evaporated milk at prices below the minimum established in this Agreement or hereafter established in accordance with the provisions of this Agreement.

2. Each contracting manufacturer shall have the right to establish his own selling prices at or above the minimum specified in schedule B: Provided, however, That prices at which he will sell must be uniform to all wholesale distributors within the same competitive area.

Sec. 2. The terms of sale by all contracting manufacturers shall allow not more than two (2) percent discount for cash within ten (10) days, and payment for invoices not paid within ten (10) days shall be net.

Sec. 3. Where milk is sold to a buyer who provides his own labels, an allowance may be made from the manufacturers' list price of not more than five (5) cents per case (2-1/2 cents on half cases) on account of labels furnished by the buyer, and if boxes are furnished by the buyer then only the actual cost of boxes shall be allowed, not to exceed five (5) cents per box. No label allowance shall be made on confectioner size.

Sec. 4. No brokerage allowance shall be made to any purchaser, buying organization, nor to any other person than a broker and the brokerage shall not exceed five (5) cents per case except in instances where it is shown to the satisfaction of said committee that higher brokerage rates in certain areas should equitably be allowed. Each contracting manufacturer must see that no brokerage paid by him to a broker is passed on to any class of purchaser.

Sec. 5. No advertising allowance shall be made to any purchaser.

Sec. 6. 1. No allowance to cover trucking or hauling shall be made to any purchaser nor to any carrier owned or controlled by a purchaser. Where a carload lot is sold at carload prices for delivery by truck the entire car shall be invoiced at the time of the first delivery to the buyer, and entire delivery be made within three (3) days.

2. No contracting manufacturer shall make deliveries to retail buyers on the basis of a preferential (as interpreted by

the Manufacturers' Committee) rail freight rate not available to competing distributors.

3. No contracting manufacturer shall absorb freight on deliveries which are made to retailers for the account of wholesale distributors.

Sec. 7. No gift of merchandise shall be made to any class of purchaser in connection with any sale of evaporated milk and no prices shall be quoted by the contracting manufacturer in combination with any other product or commodity, nor shall any discount be allowed upon the price of any other commodity in consideration of the purchase of evaporated milk.

Sec. 8. All orders shall be taken by each contracting manufacturer subject to price change prior to date of shipment, and all shipments shall be invoiced at prices announced and in effect on date of shipment.

Sec. 9. No rebate or concession shall be made from the contracting manufacturer's announced prices to wholesale distributors or the retail trade, either directly or indirectly, and the following practices are prohibited:

1. Purchasing window or shelf space.
2. Shipping goods to the buyer on consignment.
3. Renting space in distributor's warehouse.
4. Gifts or redeemable tokens to wholesale or retail purchasers or employees of purchasers.
5. Applying the carload price to sales of less than the minimum carload quantities as determined by railroad tariffs, except as provided under section 6 of this schedule.
6. Releasing milk in less than carload quantities from warehouses at below the less than carload prices, except as provided in section 6 of this schedule.
7. Any method or practice which directly or indirectly gives to the purchaser a price advantage over other purchasers, except as provided in this Agreement.

Sec. 10. No contracting manufacturer shall sell evaporated milk in hermetically sealed containers of sizes other than six (6) ounces, fourteen and one-half (14-1/2) ounces, and eight (8) pounds, by weight.

Sec. 11. Upon a decline in the established price of evaporated

milk the contracting manufacturer may refund purchasers who are solely wholesale distributors for stocks on hand as follows: On stock in warehouse of wholesale distributor received within the period of ninety (90) days prior to the decline, the contracting manufacturers will pay the wholesale distributor the amount of the decline on stocks up to but not exceeding two thousand (2,000) cases. In extending this protection no allowance shall be made for any milk not actually in the wholesale warehouse at the time the price change became effective. Where the wholesale distributor has more than one warehouse the two thousand (2,000) case limitation will apply to each warehouse regarded as a separate unit. In dealings between a wholesale distributor and a wholly owned manufacturing subsidiary or affiliate, the adjustment for decline may be made on such basis as the distributor may desire except that the refund on account of the decline shall not be paid on more than a normal 30-day working stock.

Sec. 12. No advertising of evaporated milk shall contain any false or misleading statement in derogation of any other dairy product.

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Docket No. 214
M.A. No. 7

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

AMENDMENT TO AMENDED MARKETING AGREEMENT

FOR

EVAPORATED MILK

Issued by the Secretary of Agriculture, January 10, 1935.

Effective date January 11, 1935 (12:01 a.m., eastern standard time).

AMENDMENT TO AMENDED MARKETING AGREEMENT

FOR EVAPORATED MILK

Whereas, the Secretary of Agriculture acting pursuant to section 8 (2) of the Agricultural Adjustment Act has on September 8, 1933 executed a Marketing Agreement for Evaporated Milk Industry, herein called the "Agreement"; and

Whereas, paragraph 13 of the Agreement provides as follows:

"13. Recommendations for changes in Schedule A may be made to the Secretary jointly by the Manufacturers and Producers Committees, or by either of them. Recommendations may be made by the Manufacturers Committee with respect to Schedules B and C. Such recommended changes shall become effective upon the approval of the Secretary and upon such date as the Secretary shall determine. Notice of approval by the Secretary shall be forwarded to the Managing Agent. Immediately upon receiving such notice of approval the Managing Agent shall at once notify each of the manufacturers (simultaneously by telegraph with respect to changes in Schedule B) and in the event that Schedule A has been changed, the Managing Agent shall notify also each member of the Producers Committee. It is expressly understood that the Secretary reserves the right to make such investigation as he shall deem necessary, and may, in his discretion, after such investigation, make changes from time to time in Schedules A, B and C. Notice of any such changes shall be forwarded to the Managing Agent, who in turn shall forward notice of same to each manufacturer as indicated above."; and

Whereas, the Secretary after due investigation has determined that the changes in Schedule B of the Agreement herein set forth will tend to correct conditions now obtaining in the production, marketing, distribution and handling of evaporated milk and will tend to effectuate the purposes of the Agreement and the declared policy of the Act; and

Whereas, the undersigned finds that the subject matter of the within change was embraced within the scope of a hearing heretofore held in connection with the said Agreement;

Now, therefore, the Secretary of Agriculture acting under the authority vested in him as aforesaid does hereby change the terms of Schedule B of Marketing Agreement as follows:

1. That section 1 of schedule B, which reads as follows, be deleted:

"Section I -- "Selling Prices of Evaporated Milk

"1. The delivered prices to wholesale distributors and commissaries (recognized as such by the Manufacturers Committee) in carload lots (as governed by the established tariffs of the rail carriers in the different freight zones) for evaporated milk on the effective date of this Agreement shall be as follows:

"(a) In the States of Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Colorado, New Mexico, and Armstrong, Allegheny, Beaver, Butler, Fayette, Greene, Mercer, Lawrence, Washington, and Westmoreland Counties in the State of Pennsylvania and the city of Johnstown in Cambria County, Pennsylvania, and Wyoming.

Size of Case	Maximum	Minimum
48 tall (14 1/2-ounce) cans	\$2.60	\$2.45
6 No. 10 (8-pound) cans	2.60	2.45
96 baby (6-ounce) cans	2.60	2.45
48 baby (6-ounce) cans	1.30	1.22 1/2

"The above prices shall be f.o.b. regularly recognized jobbing points only. Provided, however, that there shall be averages on account of high freight rates to the following points and to such other points as the Manufacturers Committee may from time to time determine in the amounts stated:

New Mexico - All of New Mexico except Dawson and Raton,
10 cents over. No overage in Dawson and Raton.
Wyoming - Buffalo, 10 cents over.

"(b) In the District of Columbia and the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, and all of the State of Pennsylvania not included in subsection (a) hereof -

Size of Case	Maximum	Minimum
48 tall (14 1/2-ounce) cans	\$2.70	\$2.55
6 No. 10 (8-pound) cans	2.70	2.55
96 baby (6-ounce) cans	2.70	2.55
48 baby (6-ounce) cans	1.35	1.27 1/2

"The above prices shall be f.o.b. regularly recognized jobbing points only.

"(c) In the States of Arizona, California, Idaho, Montana, Nevada, Oregon, Utah and Washington.

Size of Case	Maximum	Minimum
48 tall (14 1/2-ounce) cans	\$2.60	\$2.50
6 No. 10 (8-pound) cans	2.60	2.50
96 baby (6-ounce) cans	2.60	2.50
48 baby (6-ounce) cans	1.30	1.25

"The above prices shall be f.o.b. regularly recognized jobbing points only.

"Provided, however, that there shall be overages on account of high freight rates to the following points, and to such other points as the manufacturers committee may from time to time determine, to the amounts stated:

"Arizona - All of Arizona except Kingman, Seligman, and Yuma, 10 cents over. Kingman, 5 cents over. Seligman, 5 cents over. Yuma, no overage.
 California - Needles, 10 cents over. El Portal, 10 cents over. Lone Pine, 10 cents over. Alturas, 15 cents over. Westwood, 15 cents over. Susanville, 15 cents over.
 Idaho - Clark Fork, 10 cents over. Grangeville, 10 cents over. Salmon, 30 cents over.
 Montana - All of Montana, 10 cents over.
 Nevada - Boulder City, 10 cents over. Ely, 10 cents over. McGill, 10 cents over. Reno, 10 cents over. Winnemucca, 10 cents over. Tonopah, 45 cents over. Goldfield, 45 cents over. Las Vegas, 5 cents over.
 Washington - Republic, 10 cents over.

"(d) Alaska - Maximum and minimum prices shall be \$2.60 and \$2.50 f.o.b. any United States Pacific coast ports."

2. That the following be substituted as section 1 of Schedule B:-

"Section 1 - Selling Prices of Evaporated Milk.

"1. The delivered prices to wholesale distributors and commissaries (recognized as such by the Manufacturers Committee) in carload lots (as governed by the established tariffs of the rail carriers in the different freight zones) for evaporated milk on the effective date of this Agreement shall be as follows:

"(a) In the States of Virginia (except in the town of Alexandria, Virginia), West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Colorado, New Mexico, Wyoming; in the Counties of Armstrong, Allegheny, Beaver, Butler, Fayette, Greene, Mercer, Lawrence, Washington, Bedford, Blair, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Indiana, Jefferson, Somerset, Venango, and Westmoreland in the State of Pennsylvania and in the Counties of Allegheny and Garrett in the State of Maryland."

Size of Case	Maximum	Minimum
48 tall (14 1/2-ounce) cans	\$2.80	\$2.45
6 No. 10 (8-pound) cans	2.80	2.45
96 baby (6-ounce) cans	2.80	2.45
48 baby (6-ounce) cans	1.50	1.22 1/2

"The above prices shall be f.o.b. regularly recognized jobbing points: Provided, That there shall be overages on account of high freight rates to the following points and to such other points as the Manufacturers Committee may from time to time determine to the amounts stated:

"New Mexico--All of New Mexico, ten (10) cents over, except Clayton, Dawson, Raton, Artesia, Roswell, Carlsbad and Hobbs, in which places there shall be no overage.

"(b) In the District of Columbia, and the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island,

New York, New Jersey, Delaware; in all of those counties of Pennsylvania and Maryland which are not included in sub-section (a), section 1 hereof, and in the town of Alexandria, Virginia.

Size of Case	Maximum	Minimum
48 tall (14 1/2-ounce) cans	\$2.90	\$2.55
6 No. 10 (8-pound) cans	2.90	2.55
96 baby (6-ounce) cans	2.90	2.55
48 baby (6-ounce) cans	1.55	1.27 1/2

"The above prices shall be f.o.b. regularly recognized jobbing points.

"(c) In the States of Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, and Washington.

Size of Case	Maximum	Minimum
48 tall (14 1/2-ounce) cans	\$2.80	\$2.50
6 No. 10 (8-pound) cans	2.80	2.50
96 baby (6-ounce) cans	2.80	2.50
48 baby (6-ounce) cans	1.50	1.25

"The above prices shall be f.o.b. regularly recognized jobbing points: Provided, That there shall be overage on account of high freight rates to the following points, and to such other points as the Manufacturers Committee may from time to time determine, to the amounts stated:

"Arizona--All of Arizona, ten (10) cents over, except Kingman, Seligman and Yuma. Kingman, five (5) cents over. Seligman, five (5) cents over. Yuma, no overage.

"California--Needles, ten (10) cents over. El Portal, ten (10) cents over. Alturas, fifteen (15) cents over.

"Montana--All of Montana, ten (10) cents over.

"Nevada--Boulder City, ten (10) cents over. Ely, ten (10) cents over. McGill, ten (10) cents over. Las Vegas, five (5) cents over.

"(d) Alaska--Maximum and minimum prices shall be \$2.80 and \$2.50 f.o.b. any United States Pacific Coast ports."

3. The foregoing changes shall become effective at such time as the Secretary may declare above his signature attached hereto and shall remain in effect until January 31, 1935 and for such further period or periods as the Secretary may by further order provide: Provided, however, that the Secretary may, either prior or subsequent to said date, make such revisions and/or further changes in said Schedule as the Secretary may find necessary to effectuate the purposes of the said Agreement and the Act.

4. The provisions of the Agreement, except as changed hereby, shall continue to be in full force and effect, and nothing contained herein shall either:

(a) Affect, waive or terminate any right, duty, obligation or liability which has arisen, or which may hereafter arise in connection with, by virtue of, or pursuant to any provision of the Agreement; or

(b) Release or forgive any violations of said Agreement, occurring prior to the effective time hereof; or

(c) Affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

In Witness Whereof, H. A. Wallace,
Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, for the purposes and within the limitations therein contained and not otherwise, and pursuant to paragraph 13 of the said Marketing Agreement, does hereby execute in duplicate and make the foregoing changes in Schedule B of said Marketing Agreement, under his hand and the official seal of the Department of Agriculture in the City of Washington, District of Columbia, on this 10th day of January, 1935, and declares the foregoing changes to be effective on and after 12:01 a.m. eastern standard time, January 11, 1935.

H A Wallace

Secretary of Agriculture.

AMENDMENT NO. 2

TO

AMENDED MARKETING AGREEMENT FOR EVAPORATED MILK
CONTINUING IN EFFECT PARAGRAPH 3 OF AMENDMENT DATED JANUARY 10, 1935

★ Docket No. 214

U. S. DEPARTMENT OF AGRICULTURE

ORDER OF SECRETARY CONTINUING PRICE CHANGES

Whereas, the Secretary of Agriculture, acting pursuant to section 8 (2) of the Agricultural Adjustment Act, has on September 8, 1933, executed a Marketing Agreement for the Evaporated Milk Industry; and

Whereas, the Secretary, pursuant to the provisions of paragraph 13 of said Agreement, has on the tenth day of January, 1935, executed an Amendment to Amended Marketing Agreement for Evaporated Milk, under the terms of which the Secretary approved certain changes in section 1 of Schedule B of said Agreement; and

Whereas, it is provided in paragraph 3 of said Amendment that the changes in section 1 of Schedule B should remain in effect until January 31, 1935 and for such further period or periods as the Secretary may by further order provide; and

Whereas, the Secretary after further investigation has determined that a continuation of said changes will tend to correct conditions now obtaining in the production, marketing, distribution and handling of evaporated milk and will tend to effectuate the purposes of the Agreement and the declared policy of the Act.

Now therefore, the Secretary of Agriculture, acting under the authority vested in him as aforesaid, does hereby order that the changes in section 1 of Schedule B of the said Marketing Agreement, embodied in the said Amendment to Amended Marketing Agreement for Evaporated Milk, shall remain in effect until 11:59 p. m., February 28, 1935.

In witness whereof, H. A. Wallace,
Secretary of Agriculture, acting under the
provisions of the Agricultural Adjustment
Act, for the purposes and within the limita-
tions therein contained and not otherwise,
and pursuant to the provisions of paragraph
3 of the Amendment to Amended Marketing
Agreement for Evaporated Milk, does hereby
execute this order in duplicate and does
hereunder set his hand and cause the official
seal of the Department of Agriculture to be
affixed in the City of Washington, District
of Columbia this 29th day of January,
1935.

[Seal]

H. A. Wallace

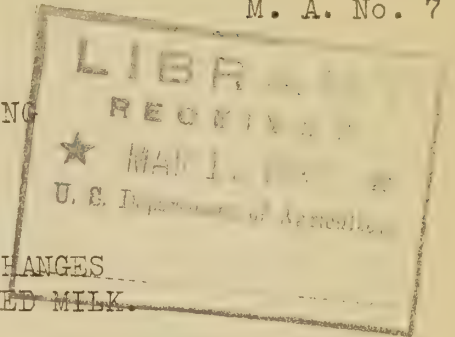
Secretary of Agriculture

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UNITED STATES DEPARTMENT OF AGRICULTURE
Agricultural Adjustment Administration
Washington, D. C.

Docket No. 4
M. A. No. 7

AMENDMENT NO. 3 TO AMENDED MARKETING
AGREEMENT FOR EVAPORATED MILK



ORDER OF SECRETARY CONTINUING PRICE CHANGES
UNDER MARKETING AGREEMENT FOR EVAPORATED MILK.

Whereas, the Secretary of Agriculture, acting pursuant to section 8 (2) of the Agricultural Adjustment Act approved May 12, 1933, as amended, on September 8, 1933, executed a Marketing Agreement for the Evaporated Milk Industry; and

Whereas, the Secretary, acting pursuant to the provisions of paragraph 13 of said Agreement, has, on the 10th day of January, 1935, executed an Amendment to the Marketing Agreement for Evaporated Milk, under the terms of which the Secretary approved certain changes in section 1 of Schedule B of said Marketing Agreement; and

Whereas, the Secretary, acting pursuant to paragraph 3 of said Amendment, has ordered that the changes embodied in said Amendment should remain in effect until 11:59 P. M., February 28, 1935; and

Whereas, the Secretary has determined that a continuation of said changes will tend to correct conditions now obtaining in the production, marketing, distribution and handling of evaporated milk and will tend to effectuate the purposes of the Agreement and the declared policy of the Act.

Now, therefore, the Secretary of Agriculture, acting under the authority vested in him as aforesaid does hereby order that the changes in section 1 of Schedule B of said Marketing Agreement, embodied in the said amendment to the Marketing Agreement for Evaporated Milk as amended shall remain in effect until 11:59 P. M., March 31, 1935.

(SEAL)

In witness whereof, H. A. WALLACE,
Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, for the purposes and within the limitations therein contained and not otherwise, and pursuant to the provisions of paragraph 3 of the Amendment to the Marketing Agreement for Evaporated Milk as amended, does hereby execute this order in duplicate and does hereunto set his hand and cause the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 2nd day of March, 1935.

H a w a l l a c e

Secretary of Agriculture.

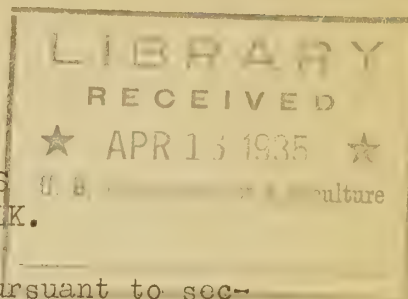
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UNITED STATES DEPARTMENT OF AGRICULTURE
Agricultural Adjustment Administration
Washington, D. C.

M. A. No. 7

AMENDMENT NO. 4 TO AMENDED MARKETING
AGREEMENT FOR EVAPORATED MILK

ORDER OF SECRETARY CONTINUING PRICE CHANGES
UNDER MARKETING AGREEMENT FOR EVAPORATED MILK.



WHEREAS, the Secretary of Agriculture, acting pursuant to section 8 (2) of the Agricultural Adjustment Act approved May 12, 1933, as amended, on September 8, 1933, executed a Marketing Agreement for the Evaporated Milk Industry; and

WHEREAS, the Secretary, acting pursuant to the provisions of paragraph 13 of said Agreement, has, on the 10th day of January, 1935, executed an Amendment to the Marketing Agreement for Evaporated Milk, under the terms of which the Secretary approved certain changes in section 1 of Schedule B of said Marketing Agreement; and

WHEREAS, the Secretary, acting pursuant to paragraph 3 of said Amendment, has ordered that the changes embodied in said Amendment should remain in effect until 11:59 P. M., March 31, 1935; and

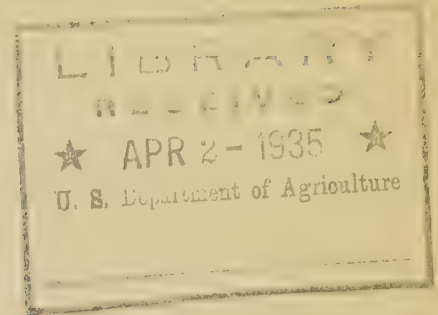
WHEREAS, the Secretary has determined that a continuation of said changes will tend to correct conditions now obtaining in the production, marketing, distribution and handling of evaporated milk and will tend to effectuate the purposes of the Agreement and the declared policy of the Act.

NOW, THEREFORE, the Secretary of Agriculture, acting under the authority vested in him as aforesaid, does hereby order that the changes in section 1 of Schedule B of said Marketing Agreement, embodied in the said Amendment to the Marketing Agreement for Evaporated Milk as amended shall remain in effect until 11:59 P. M., April 30, 1935.

(SEAL)

In witness whereof R. G. Tugwell,
Acting Secretary of Agriculture, acting
under the provisions of the Agricultural
Adjustment Act, for the purposes and with-
in the limitations therein contained and
not otherwise, and pursuant to the pro-
visions of paragraph 3 of the Amendment
to the Marketing Agreement for Evaporated
Milk as amended, does hereby execute this
order in duplicate and does hereunto set
his hand and cause the official seal of
the Department of Agriculture to be affixed
in the City of Washington, District of
Columbia, this 2nd day of April, 1935.

R G Tugwell
Acting Secretary



UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

TENTATIVE MARKETING AGREEMENT FOR
EVAPORATED MILK INDUSTRY

I hereby certify that this document is a true
and correct copy of the said Marketing Agreement as
tentatively approved by the Secretary of Agriculture,
March 20, 1935.

(Signed) James K. Khudson
Chief Hearing Clerk.

Dated: March 20, 1935

Washington, D. C.

INSTRUCTIONS FOR SIGNING MARKETING AGREEMENT

(Please read carefully before signing)

Contracting manufacturers, who wish to enter into the Marketing Agreement for the Evaporated Milk Industry, with the Secretary of Agriculture, should fill in and sign in accordance with the following instructions:

1. The Agreement should be signed in the space provided for the signer's signature and address on page 25, Article XXII, headed "Signature of Parties". The type of business organization which you follow, whether corporation, partnership or individual, should be indicated with your signature. If your business is organized as a corporation, you should be sure to impress its seal to the left of your signature.
2. The authorization to correct typographical errors on page 27.
3. If your business is a corporation, the board of directors should pass a resolution, in the form attached to the Agreement on page 27, authorizing the signing of this Agreement.
4. In case of partnerships and corporations, the Agreement should be signed by persons authorized to represent the same, such authorization to be indicated.

When the above procedure has been completed, the Agreement should be returned to

Chief Hearing Clerk, A.A.A.,
4723 South Building,
Department of Agriculture,
Washington, D. C.

TENTATIVE
MARKETING AGREEMENT FOR
EVAPORATED MILK INDUSTRY

ARTICLE I -- PURPOSES

The parties of this Agreement are the contracting manufacturers of evaporated milk in the United States and the Secretary of Agriculture of the United States.

Whereas, it is the declared policy of Congress as set forth in section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended:

"(1) To establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period. The base period in the case of all agricultural commodities except tobacco shall be the pre-war period, August 1909-July 1914. In the case of tobacco, the base period shall be the post-war period, August 1919-July 1929.

"(2) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets.

"(3) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumer's retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909-July 1914;" and

Whereas, pursuant to the Agricultural Adjustment Act, the parties hereto for the purpose of correcting conditions now obtaining in the handling of Evaporated Milk, and to effectuate the declared policy of the Act, desire to enter into a Marketing Agreement under the provisions of section 8 (2) of the Act:

Now, therefore, the parties hereto agree as follows:

ARTICLE II -- DEFINITIONS

Section 1. Definition of Terms. -- As used in this Agreement,

1. "Secretary" means the Secretary of Agriculture of the United States.

2. "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

3. "Person" means individual, partnership, corporation, association, receiver, and/or any other business unit.

4. "Evaporated milk" means the unsweetened, concentrated, sterilized milk which (1) complies with the definition and standard for evaporated milk promulgated by the Secretary of Agriculture, except that Vitamin D may have been added thereto, and (2) is packed in hermetically sealed containers.

5. "Milk" means any milk or cream delivered to any evaporated milk manufacturing plant.

6. "Producer" means any person who produces milk and from whom evaporated milk manufacturing plants obtain milk for manufacturing purposes.

7. "Manufacturer" means any person engaged in the manufacture and sale of evaporated milk in competition with, or so as to burden, obstruct, or in any way affect interstate and/or foreign commerce.

8. "Contracting manufacturer" means a manufacturer who becomes a party signatory to this Agreement according to the terms thereof.

9. "Retail trade" means all distributors of evaporated milk and other purchasers insofar as they sell to or supply evaporated milk to individual or household consumers.

10. "Wholesale distributors" means all jobbers, selling to the retail trade, and all persons operating one or more warehouses, said warehouse or warehouses being separately located from retail outlets and supplying five or more retail outlets under the same ownership or control as the warehouse or warehouses.

11. "Broker" means any independent sales agent who performs the services of negotiating the sale of evaporated milk for and on account of the seller, and who is not employed or established by, nor an affiliate or subsidiary of, any trade buyer and whose compensation is a commission or brokerage paid by the seller.

12. "Case" means a package containing forty-eight (48) tall cans (14-1/2 ounces) or ninety-six (96) baby cans (6 ounces) or six (6) confecturer cans (8 pounds). A package containing forty-eight (48) baby cans (6 ounces) shall be considered one-half (1/2) case and shall be so treated for all the purposes of this Agreement.

13. "Producers Committee" means the committee established pursuant to article IV of this Agreement.

14. "Manufacturers Committee" means the committee established pursuant to article III of this Agreement.

15. "Managing Agent" means the Managing Agent appointed as herein-after provided in article III, section 10 of this Agreement.

16. "Books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence or other data pertaining to the business of the person in question.

17. "Subsidiary" means any person, of or over whom or which a contracting manufacturer or an affiliate of a contracting manufacturer has, or several contracting manufacturers collectively have, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

18. "Affiliate" means any person and/or any subsidiary thereof, who or which has, either directly or indirectly, actual or legal control of or over a contracting manufacturer by stock ownership or in any other manner.

19. "Carload" means the minimum weight established by the tariff of rail carriers in the different freight zones. In territories where no published rail tariffs exist a carload shall be a minimum of seven hundred (700) cases.

ARTICLE III -- MANUFACTURERS' COMMITTEE

Section 1. Members. A Manufacturers' Committee shall be established consisting of eight (8) members, who shall be selected in accordance with the provisions of this article and shall serve until September 1 of the calendar year following the date of their respective selections and until their respective successors are selected. The initial members shall be selected within thirty (30) days after the effective date of this Agreement, and their respective successors shall be selected annually thereafter at least fifteen (15) days prior to the termination of the term of office of their respective predecessors. No delay in the selection of any member or successor shall be deemed to invalidate any such selection.

Sec. 2. Selection of Members. 1. Five (5) members shall be selected by a general election in which all manufacturers whose production of evaporated milk for the calendar year next preceding the date of such election shall have been in excess of 1,500,000 cases. At any such election each manufacturer shall be entitled to cast one vote on behalf of himself, agents, partners, affiliates, subsidiaries and/or representatives for each of the members for whom he is entitled to vote.

2. Three (3) members shall be selected by a general election in which all other manufacturers of evaporated milk shall be entitled to participate. At any such election each manufacturer shall be entitled to cast one vote on behalf of himself, agents, partners, affiliates, subsidiaries and/or representatives for each of the members for whom he is entitled to vote.

3. To perform the functions and duties of the Manufacturers' Committee during the period prior to its selection pursuant to this article, an Interim Committee is hereby established consisting of William T. Nardin, E. G. Amell, H. M. Clark, U. M. Dickey, P. G. Kinzer, F. B. Childs, R. B. Page, and Walter Page. Said Interim Committee shall during such period have all the powers and duties herein prescribed for any Manufacturers' Committee, but shall cease to function upon the selection and organization of the Manufacturers' Committee.

Sec. 3. Alternates. An alternate shall be selected for each member of the Manufacturers' Committee who shall be selected in the same manner, by the same class of manufacturers and at the same time as such member is elected. The alternate for each such member shall have the power to act in the place and stead of such member in his absence and/or in the event of his removal, resignation or disqualification, until a successor for his unexpired term has been selected.

Sec. 4. Vacancies. To fill any vacancy occasioned by the removal, resignation or disqualification of any member of the Manufacturers' Committee, or any alternate for any member, a successor for his unexpired term shall be selected within thirty (30) days after such vacancy occurs by vote of the remaining members of the Manufacturers' Committee elected by the same class of manufacturers which elected such member or alternate.

Sec. 5. Failure to Select Members. If any member or successor is not selected within the applicable period specified in this article, the Secretary may select a person with full power to act as a member, to serve until such successor is selected.

Sec. 6. Quorum. The Manufacturers' Committee shall not perform any of its duties, or exercise any of the powers herein granted, while there are more than two (2) vacancies in its membership, and shall not issue any order or take any other action except upon vote of at least two-thirds (2/3) (computed to the nearest whole number) of the members voting thereon.

Sec. 7. Certification of Members. Upon the selection of any member or members of the Manufacturers' Committee, the Secretary of said Manufacturers' Committee shall certify to the Secretary the name and address of each such member and of his alternate, if any, and the date or dates of their selection. The members and alternates, if any, so certified to the Secretary shall be deemed for all purposes to be the duly selected members and alternates of the Manufacturers' Committee, subject, however, to the right of any interested party to protest such selection in accordance with the applicable Administrative Orders issued by the Secretary.

Sec. 8. Removal and Disapproval. The members of the Manufacturers' Committee or any other committee created hereunder (including successors, alternates or persons selected by the Secretary), and any agent or employee appointed or employed by the Manufacturers' Committee or by any other committee, shall be subject to removal by the Secretary at any time with or

without cause. Each and every order, regulation, decision, determination or other act of the Manufacturers' Committee or of any other committee, shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void except as to acts done prior to such disapproval and in reliance on or in compliance with such order, regulation, determination or other act of such Committee.

Sec. 9. Expenses of Members. Members of the Manufacturers' Committee shall serve without compensation but shall be entitled to expenses necessarily incurred in the performance of their duties hereunder.

Sec. 10. Powers and Duties. The powers and duties of the Manufacturers' Committee shall include the following:

1. To elect a chairman and, from time to time, such other officers as it may deem advisable, and to adopt rules and regulations for the performance of its duties under this Agreement.
2. To supervise the performance of this Agreement and to act as intermediary between the Secretary and the manufacturers and the producers.
3. To appoint such employees as it deems necessary and to determine the salaries and define the duties of such employees.
4. To appoint and define the duties of additional committees or subcommittees to assist it in the performance of any of its duties and functions hereunder.
5. (a) To investigate suspected violations of this Agreement; to hear and dispose of all questions, disputes and complaints arising in connection with the performance of this Agreement.
(b) To entertain and hear petitions or complaints of manufacturers relative to (1) the amendment, alteration or modification of this Marketing Agreement; (2) the rules and regulations adopted by the Manufacturers' Committee; (3) the operations of the Manufacturers' Committee or the Managing Agent under this Agreement; (4) promulgation of statistics relating to the production, sale and price of evaporated milk under this Agreement.
(c) To entertain and hear petitions or complaints of manufacturers or of the Producers' Committee on any other matter connected with this Agreement and its effect upon manufacturers or producers whether singly or otherwise.
(d) If a member of the Manufacturers' Committee shall be an interested party to any dispute or complaint or a representative of such an interested party who shall for the purpose of the consideration of such dispute or complaint be disqualified as a member of the Manufacturers' Committee, such disqualification, however, shall not be deemed to create a vacancy in the Manufacturers' Committee within the prohibition of section 6 of this Article.

(e) To meet with the Producers' Committee in connection with the hearing and disposition of all questions, disputes and complaints in connection with or pertaining to article VI.

6. The Manufacturers' Committee, with the approval of the Secretary, shall appoint a Managing Agent for said Committee, who shall not be a manufacturer nor interested as a stockholder, director, officer, or employee of any manufacturer or affiliate of such manufacturer, and who shall perform the duties expressly provided for in this Agreement and such other duties as may be assigned to him by such Committee. The Managing Agent shall file with the Secretary his acceptance of his appointment and his post office and telegraphic address.

Sec. 11. Disqualification. No manufacturer shall be entitled to participate in the selection of members of the Manufacturers' Committee in accordance with the terms of this article, if he has failed to pay his contribution pursuant to section 1, article V of this Agreement, or pursuant to any license supplementary hereto, issued pursuant to section 8 (3) of the Act.

Sec. 12. Reports, Books and Records. 1. The Manufacturers' Committee shall, upon the request of the Secretary, furnish him such information as he may request, and all the books and records of the Committee shall, at any time, be subject to the examination of the Secretary.

2. The Manufacturers' Committee shall keep books and records which will clearly reflect all its transactions.

3. Upon the termination of this Agreement, the foregoing provisions shall continue to apply to the members of the Manufacturers' Committee, functioning at the time of such termination, until such members have been discharged in accordance with the provisions of paragraph 3 of section 13 of this article.

Sec. 13. Funds. All funds received by the Manufacturers' Committee pursuant to any provision of this Agreement shall be used solely for the purpose therein specified, and shall be accounted for in the following manner:

1. During the term of this Agreement, the Secretary may require the Manufacturers' Committee and its members to account for all receipts and disbursements and/or to deliver all funds on hand, together with all books and records of the Committee, at such time or times, in such manner and to such person, as the Secretary shall direct, and to execute such assignments or other instruments necessary or appropriate to vest in such person full title to all of the funds and/or claims vested in the Committee pursuant to this Agreement.

2. Upon the expiration of the term of office of any member of the Manufacturers' Committee, such member shall account for all receipts and disbursements and deliver all funds in his hands, together with all books and records in his possession, to his successor in office, and shall execute such assignments and other instruments as may be necessary

or appropriate to vest in such successor full title to all of the funds and/or claims vested in such member pursuant to this Agreement.

3. Upon the termination of this Agreement, the members of the Manufacturers' Committee then functioning shall continue as joint trustees for the purpose of this Agreement of all funds then in the possession or under the control of the Committee, including claims for any funds which are unpaid at the time of such termination. Said trustees (a) shall continue in such capacity until discharged by the Secretary, (b) shall from time to time account for all receipts and disbursements and/or deliver all funds on hand, together with all books and records of the Committee, to such person as the Secretary shall direct, and (c) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all of the funds and/or claims vested in the Committee pursuant to this Agreement. Any funds collected for expenses pursuant to section 1 of article V and held by such joint trustees or such person, over and above amounts necessary to meet outstanding obligations, shall be returned to the manufacturers prorata in proportion to their contributions made pursuant to this Agreement, and/or pursuant to any license which may be issued supplementary hereto, pursuant to section 8 (3) of the Act.

Sec. 14. Collection of Funds. The Manufacturers' Committee is authorized and empowered, subject to the prior approval of the Secretary, to institute legal proceedings in the name of its individual members as a committee and to take such other steps as may be necessary to collect or enforce the payment of funds from persons liable therefor, pursuant to the provisions of this Agreement. Upon the termination of this Agreement, the foregoing power shall (unless otherwise provided in the notice of termination) continue in the members of the Committee as trustees pursuant to section 13, with respect to any funds unpaid at the time of such termination: Provided, That such power may at any time be terminated by the Secretary and vested in such other person as the Secretary may direct. Nothing herein contained shall be construed to be in derogation or modification of the right of the Secretary at any time to institute legal proceedings or to take such other steps as may be necessary to collect or enforce the payment of any such funds.

ARTICLE IV -- PRODUCERS' COMMITTEE

Section 1. Members. A Producers' Committee shall be established consisting of eight (8) members who shall be selected in accordance with the provisions of this article. The initial members shall be B. F. Beach, L. A. Chapin, Carl Hedges, Thomas A. O'Connor, J. J. Murray, George W. Ruppel, E. W. Tiedeman, and E. D. Waid, who shall serve until a method of election has been prescribed by order of the Secretary pursuant to section 2, and until successor members have been elected pursuant to such plan of election as so approved.

Sec. 2. Selection of Members. The Secretary may at any time, by written order, prescribe a method of election, either upon his own initiative or after submission of such method to the Secretary by one

or more producers' associations. Such method of election, when so prescribed by the Secretary, shall have the same force and effect as though the provisions thereof were fully set forth in this Article.

Sec. 3. Alternates. Each group or person selecting a member of the Producers' Committee, may, in the same manner, at any time, select an alternate to act in the place and stead of such member (a) in his absence and/or (b) in the event of his removal, resignation or disqualification, until a successor for his unexpired term has been selected.

Sec. 4. Vacancies. Until a method of election is prescribed by the Secretary pursuant to section 2 of this article, any vacancy occasioned by the resignation, removal, or disqualification of any member of the Producers' Committee shall, within thirty (30) days after such vacancy occurs be filled by majority vote of the remaining members; Provided, That the Secretary may upon the removal of any member pursuant to section 8 of this article designate his successor. Upon the selection of such successor, the Secretary of the Producers' Committee shall certify to the Secretary the name and address of such successor and the date of his selection. The successor member so certified to the Secretary shall be deemed for all purposes to be a duly selected member of the Producers' Committee, subject, however, to the right of any interested party to protect such selection in accordance with the applicable Administrative Orders issued by the Secretary.

Sec. 5. Failure to Select Members. If after a method of election is prescribed by the Secretary any successor is not selected pursuant to section 4 of this article within thirty (30) days after any vacancy occurs, or in the event the selection of such successor is immediately necessary in order that the Committee may perform its duties and powers by reason of the provision in section 6 of this article the Secretary may select a person with full power to act as a member to serve until such successor is selected.

Sec. 6. Quorum. The Producers' Committee shall not perform any of its duties or powers herein granted while there are more than three (3) vacancies in its membership.

Sec. 7. Certification of Members. Upon the selection of any member or members of the Producers' Committee, the Secretary of said Producers' Committee shall certify to the Secretary the name and address of each such member and of his alternate, if any, and the date or dates of their selection. The members and alternates, if any, so certified to the Secretary shall be deemed for all purposes to be the fully selected members and alternates of the Producers' Committee, subject, however, to the right of any interested party to protect such selection in accordance with the applicable Administrative Orders issued by the Secretary.

Sec. 8. Removals and Disapprovals. The members of the Producers' Committee and of any agent or employee appointed or employed by such Committee shall be subject to removal by the Secretary at any time with or without cause. Each and every order, regulation, decision, determination

or other act of the Committee or of any other committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith.

Sec. 9. Compensation. Members of the Producers' Committee shall serve without compensation, but shall be entitled to expenses necessarily incurred in the performance of their duties hereunder.

Sec. 10. Powers and Duties. The powers and duties of the Producers' Committee shall include the following:

1. To elect a chairman and from time to time such other officers as it may deem advisable and to adopt rules and regulations for the performance of its duties under this Agreement.

2. To appoint such employees as it deems necessary and to determine the salaries and define the duties of such employees.

3. To appoint and define the duties of additional committees or subcommittees to assist it in the performance of any of its duties and functions hereunder.

4. To perform such powers and functions as are expressly provided in this Agreement and such other powers and functions as may be vested in said Committee by written order of the Secretary, to effectuate the provisions and purposes of this Agreement.

5. To investigate the necessity and/or feasibility of providing check-weighing and testing service at plants where such services are not performed by state or producer organizations.

6. To hear and dispose of all questions, disputes, and complaints in connection with or pertaining to check-weighing and testing and to meet with the Manufacturers' Committee in connection with the hearing and disposition of all questions, disputes, and complaints in connection with or pertaining to article VI.

Sec. 11. Disqualification. No producer shall be entitled to participate in the selection of members of the Producers' Committee in accordance with the terms of this article, if he has failed to pay his contribution pursuant to article V of this Agreement, or pursuant to any license supplementary hereto, issued pursuant to section 8 (3) of the Act.

Sec. 12. Reports, Books and Records. 1. The Producers' Committee shall, upon the request of the Secretary, furnish him such information as he may request and all the books and records of the Producers' Committee shall, during the usual hours of business, be subject to the examination of the Secretary.

2. The Producers' Committee shall keep books and records which will clearly reflect all its transactions under this Agreement.

3. Upon the termination of this Agreement, the foregoing provisions shall continue to apply to the members of the Producers' Committee, functioning at the time of such termination, until such members have been discharged in accordance with the provisions of paragraph 3 of section 13 of this article.

Sec. 13. Funds. All funds received by the Producers' Committee pursuant to any provision of this Agreement shall be used solely for the purpose therein specified, and shall be accounted for in the following manner:

1. During the term of this Agreement, the Secretary may require the Producers' Committee and its members to account for all receipts and disbursements and/or to deliver all funds on hand, together with all books and records of the Committee, at such time or times, in such manner and to such person as the Secretary shall direct, and to execute such assignments or other instruments necessary or appropriate to vest in such person, persons or agency full title to all of the funds and/or claims vested in the Committee pursuant to this Agreement.

2. Upon the expiration of the term of office of any member of the Producers' Committee, such member or members shall account for all receipts and disbursements and deliver all funds in his hands, together with all books and records in his possession to his successor in office, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the funds and/or claims vested in such member pursuant to this Agreement.

3. Upon the termination of this Agreement, the members of the Committee then functioning shall continue as joint trustees for the purposes of this Agreement of all funds then in the possession or under the control of the Committee, including claims for any funds which are unpaid at the time of such termination. Said trustees (1) shall continue in such capacity until discharged by the Secretary, (2) shall from time to time account for all receipts and disbursements and/or deliver all funds on hand, together with all books and records of the Committee, to such person as the Secretary shall direct, and (3) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all of the funds and/or claims vested in the Committee pursuant to this Agreement. Any funds collected for expenses (from deductions made) pursuant to section 2 of article V and/or pursuant to any license which may be issued supplementary hereto, pursuant to section 8 (3) of the Act, and held by such joint trustees or such person, persons or agency, over and above amounts necessary to meet outstanding obligations, shall be distributed equitably among all producers from whom such deductions have been made.

4. Any person to whom funds and/or claims have been delivered by the Producers' Committee or to its members, shall be subject to the same obligations and duties with respect to said funds as are hereinabove imposed upon the members of said Committee.

Sec. 14. Collection of Funds. The Producers' Committee is authorized and empowered, subject to the prior approval of the Secretary, to institute legal proceedings in the name of its individual members as a Committee and to take such other steps as may be necessary to collect or enforce the payment of funds due such Committee from persons liable therefor, pursuant to the provisions of this Agreement. Upon the termination of this Agreement, the foregoing power shall (unless otherwise provided in the notice of termination) continue in the members of the Committee as trustees pursuant to paragraph 3 of section 13, with respect to any funds unpaid at the time of such termination: Provided, That such power may at any time be terminated by the Secretary and vested in such other person as the Secretary may direct. Nothing herein contained shall be construed to be in derogation or modification of the rights of the Secretary at any time to institute legal proceedings or to take such other steps as may be necessary to collect or enforce the payment of any such funds.

ARTICLE V -- EXPENSES

Section 1. Expenses of Manufacturers' Committee. 1. To carry out the provisions of this Agreement and of any license supplementary thereto issued pursuant to section 8 (3) of the Act, the Manufacturers' Committee is authorized and directed:

- (a) To incur such reasonable obligations as may be necessary and proper and to meet such obligations out of funds as herein provided.
- (b) To submit to the Secretary for his approval, subject to such notice, and opportunity for hearing as the Secretary shall prescribe (1) an itemized budget of its estimated expenses for the foregoing purposes and (2) the basis upon which the funds necessary to support such budget shall be contributed by the contracting manufacturers. Each manufacturer's basis of payment shall be his percentage of the budget based on the proportion that his total sales of evaporated milk in the United States and Alaska in the preceding year were to the total sales of evaporated milk in the United States and Alaska by all the evaporated milk manufacturers.

2. Contributions. Upon the approval of the Secretary of such budget, each of the contracting manufacturers agrees to contribute to the Manufacturers' Committee his share of the funds to be raised by it in accordance with the basis of contribution submitted to and approved by the Secretary pursuant to subdivision (b) of subsection 1 of this section.

Sec. 2. Expenses of Producers' Committee. 1. To perform its powers and functions under the provisions of this Agreement and of any license supplementary thereto issued pursuant to section 8 (3) of the

Act, (other than those which may be delegated to it pursuant to article IV of this Agreement or any similar article of any such license) the Producers' Committee is authorized and directed:

- (a) To incur such reasonable obligations as may be necessary and proper and to meet such obligations out of funds as herein provided; and
- (b) To submit to the Secretary for his approval, and subject to such notice and opportunity for hearing to producers and/or producers' associations as the Secretary shall prescribe, an itemized budget of its estimated expenses for the foregoing purposes.

2. Upon the basis of such budget, the Secretary may by written order, prescribe uniform deductions to be made from all payments to producers, and may designate the Manufacturers' Committee and/or any other person to receive any pay over such deductions to the Producers' Committee, or may designate the Producers' Committee to itself receive such deductions direct from the manufacturers.

3. On and after the effective date of any such order of the Secretary, each manufacturer shall make and shall pay over to the Committee, person or agency so designated by the Secretary, the deductions so prescribed at the time of making payment to producers. The making of any such deductions shall not be deemed a violation of article VI of this Agreement.

ARTICLE VI -- MINIMUM PRICES TO BE PAID FOR MILK DELIVERED TO EVAPORATED MILK PLANT

Section 1. North-Central States. Minimum prices to be paid to producers or other persons for milk delivered to evaporated milk plants located in Illinois, Indiana, Iowa, Maryland, Michigan, Minnesota, Ohio, and Wisconsin, except as provided by section 7 of this article.

1. The minimum price per 100 pounds to be paid for milk delivered to such evaporated milk plants and used for the production of evaporated milk shall be calculated each month as follows:

- (a) Multiply the average wholesale price per pound of 92 score butter at Chicago for said month as reported by the United States Department of Agriculture by six;
- (b) Add 2.4 times the average weekly prevailing prices per pound of "Twins" during said month on the Wisconsin Cheese Exchange at Plymouth, Wisconsin;
- (c) Divide by 7, the sum so determined being hereafter referred to in this article as the "combined butter and cheese value."

(d) To the combined butter and cheese value add 30 per cent thereof.

(e) Multiply the sum computed in (d) above by the butterfat content of the milk, except that if the butterfat content is in excess of 4 per cent, there shall be added to the figure arrived at for 4 per cent butterfat content a sum computed as follows:

(i) To the combined butter and cheese value, add 10 per cent thereof, and;

(ii) Multiply the sum obtained in (i) above by the butterfat content of the milk in excess of 4 per cent.

2. The minimum price per 100 pounds to be paid for milk delivered to such evaporated milk plants and not used for the production of evaporated milk shall be calculated each month as follows:

(a) To the combined butter and cheese value add 10 per cent thereof; and

(b) Multiply by the butterfat content of the milk.

3. In computing the price to be paid to producers for milk delivered during any month, the price paid for milk used for the production of evaporated milk and the price paid for milk not so used may be blended on the basis of the use made of the milk.

Section 2. North-Eastern States. Minimum prices to be paid to producers or other persons for milk delivered to evaporated milk plants located in New York, Pennsylvania, and Vermont, except as provided by section 7 of this article.

1. The minimum price per 100 pounds to be paid for milk delivered to such evaporated milk plants and used for the production of evaporated milk shall be calculated each month as follows:

(a) Calculate such price as if it were delivered to plants in the territory described under subdivision 1, section 1 and add seven (7) cents per hundred (100) pounds of milk.

2. The minimum price per 100 pounds to be paid for milk delivered to such evaporated milk plants and not used for the production of evaporated milk shall be calculated each month as follows:

(a) To the combined butter and cheese value calculated in the same manner as set forth in subdivision 1, section 1, except that New York City butter quotations and Gouverneur and Cuba, New York, cheese quotations shall be used in place of the Chicago butter quotations and Plymouth cheese quotations set forth in said subdivision 1, section 1 thereof.

(b) To the combined butter and cheese value add ten (10) per cent thereof; and

(c) Multiply by the butterfat content of the milk.

3. In computing the price to be paid to producers for milk delivered during any month, the price paid for milk used for the production of evaporated milk and the price paid for milk not so used may be blended on the basis of the use made of the milk.

Section 3. Southern States. Minimum prices to be paid to producers or other persons for milk delivered to evaporated milk plants located in Alabama, Kansas, Kentucky, Mississippi, Missouri, Tennessee, Texas, Colorado, and Virginia, except as provided by section 7 of this article.

1. The minimum price per 100 pounds to be paid for milk delivered to such evaporated milk plants and used for the production of evaporated milk shall be calculated each month as follows:

(a) From the average wholesale price per pound for 92 score butter at Chicago for said month as reported by the United States Department of Agriculture deduct two (2) cents.

(b) To this figure add thirty (30) per cent thereof.

(c) Multiply by the fat content of the milk, except that if the butterfat content is in excess of four (4) per cent, there shall be added a sum computed to the figure arrived at for four (4) per cent butterfat content as follows:

(i) To the butter value as determined in subsection 1 (a) above add ten (10) per cent thereof; and,

(ii) Multiply by the excess butterfat content of the milk above four (4) per cent.

2. The minimum price to be paid per 100 pounds of milk delivered to such evaporated milk plants and not used for the production of evaporated milk shall be calculated each month as follows:

(a) To the butter value as determined in subsection 1 (a) above add ten (10) per cent thereof; and

(b) Multiply by the butterfat content of the milk.

3. In computing the price to be paid to producers for milk delivered during any month, the price paid for milk used for the production of evaporated milk and the price paid for milk not so used may be blended on the basis of the use made of the milk.

Section 4. Western States. Minimum prices to be paid to producers or other persons for milk delivered to evaporated milk plants located in Arizona, Idaho, and Utah, except as provided by section 7 of this article.

1. The minimum price per 100 pounds to be paid for milk delivered to such evaporated milk plants during each month shall be calculated as follows:

(a) From the average wholesale price per pound for 92 score butter at San Francisco for said month as reported by the United States Department of Agriculture deduct one (1) cent.

(i) To this figure add ten (10) per cent thereof; and

(ii) Multiply by the fat content of the milk.

Section 5. Northwestern States. Minimum prices to be paid to producers or other persons for milk delivered to evaporated milk plants located in Oregon and Washington, except as provided by section 7 of this article.

1. The minimum price per 100 pounds to be paid for milk delivered to such evaporated milk plants during each month shall be calculated each month as follows:

(a) To the average wholesale price per pound for 92 score butter at Seattle for said month as reported by the Seattle Wholesale Butter, Cheese, and Egg Exchange add ten (10) per cent.

(i) Multiply by the butterfat content of the milk.

Section 6. California. Minimum prices to be paid to producers or other persons for milk delivered to evaporated milk plants located in California, except as provided by section 7 of this article.

1. The minimum price per 100 pounds to be paid for milk delivered to such evaporated milk plants during each month and used for the production of evaporated milk shall be calculated each month as follows:

(a) To the average wholesale price per pound of 92 score butter at San Francisco for said month as reported by the United States Department of Agriculture add twenty (20) per cent.

(i) Multiply by the butterfat content of milk.

2. The minimum price per 100 pounds to be paid for milk delivered to such evaporated milk plants and not used for the production of evaporated milk shall be calculated each month as follows:

(a) To the average wholesale price of butter as determined in subsection 1 (a) above add ten (10) per cent.

(i) Multiply by the butterfat content of milk.

3. In computing the price to be paid to producers for milk delivered during any month, the price paid for milk used for the production of evaporated milk and the price paid for milk not so used may be blended on the basis of the use made of the milk.

Section 7. Payments by Cooperatives. No provision in this Marketing Agreement shall be construed as controlling or restricting any producers' cooperative association which meets the requirements of the Capper-Volstead Act with respect to the actual deductions or charges, dividends or premiums to be made by such association from and/or to its members: Provided, That no such deductions or charges may be made by any such producers' cooperative association from any of the amounts paid to its members, to meet a current operating loss incurred by such producers' cooperative association in its processing or distribution operations unless (a) the producers' cooperative notifies the Managing Agent in advance of the same, and (b) furnishes the Managing Agent with such information as will prove the bona fides of the deductions which are to be made pursuant to this section. Any producers' cooperative association or any member thereof may take an appeal in writing to the Secretary of Agriculture from the findings of the Managing Agent with respect to the bona fides of the deductions. The decision of the Secretary shall be final and pending the disposition by the Secretary of any appeal, the parties shall abide by the order or decision of the Managing Agent, unless the Secretary shall rule otherwise pending such disposition.

ARTICLE VII -- FILING OF PRICES AND TERMS OF SALE FOR EVAPORATED MILK

Section 1. Open Prices. 1. Each contracting manufacturer shall file with the Secretary and the Managing Agent within ten (10) days after the effective date of this Agreement a complete list of his selling prices in the United States and Alaska and the terms of sale to all buyers other than those specified in section 3 of this article and the territories where-in such prices and terms of sale are effective for each size, quantity and brand of evaporated milk sold by him under his own label or otherwise. All filed prices, except to the retail trade, shall be f.o.b. jobbing points. The list may quote separate prices and terms for each of the zones outlined in section 4 of this article. All prices and terms, except to the retail trade, shall be uniform for all sales of the same type within the zones so outlined unless otherwise specified in the price list so filed; and except that overages for the points listed in section 5 of this article may be filed.

2. Price Changes. Any price list filed by a contracting manufacturer may be modified at any time by such manufacturer by filing a new or amended list of prices and terms of sale which shall not be effective before said new or amended list shall have been received in any office of the Managing Agent during usual business hours; Provided, however, that in the event such list is mailed or telegraphed to such office of the Managing Agent,

it shall be deemed to have been received either (a) at the time during usual business hours it is actually delivered in such office, or (b) at the time during usual business hours such communication would have been received, considering the usual time required for the means of communication used, in the absence of delays in transit, whichever time is the earlier.

3. Each contracting manufacturer agrees that after any price list or amended price becomes effective, he will make no sales at prices or terms of sale different from those set forth in his latest effective list.

4. The Managing Agent shall immediately upon receipt of any new or amended list, give written notice thereof to each of the contracting manufacturers and to the Secretary.

Section 2. Less Than Carload Sales. Prices filed for less than carload lots shall be at not less than 5¢ per case above those filed for carloads: Provided, That where two (2) or more purchasers join in purchasing a carload to be shipped to one of the purchasers or to a warehouseman, the carload price shall prevail. Any and all charges accruing on account of stop-over cars shall be charged to buyers in proportion to their respective interests in said cars.

Section 3. Exceptions to Filed Prices.

1. Relief, Charity, and Government Sales. The prices filed, as in section 1 above, shall not be applicable to any sales made direct to any public unemployment relief agency (whether local, state, or Federal), to any private unemployment relief agency cooperating with or accredited to any public unemployment relief agency, to any charitable institution or to any government agency (whether local, state, or Federal) when such sales are on competitive bids.

2. Sales between Manufacturers. The provisions of this article shall not apply to sales of evaporated milk made by one contracting manufacturer to another: Provided, (1) That the manufacturer purchasing such evaporated milk is not a retail or wholesale distributor or a subsidiary or affiliated with a retail or wholesale distributor, and (2) that a monthly report of all such sales shall be made to the Managing Agent within fifteen (15) days after the end of each month.

3. Foreign Sales. The provisions of this Agreement shall not apply to any sales made by any contracting manufacturer for delivery outside the United States and Alaska, except that the amount of such sales shall be reported to the Managing Agent.

Section 4. Zones. The zones referred to in section 1 of this article shall be as follows:

1. First Zone. Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Kansas, Nebraska, South Dakota,

North Dakota, Colorado, New Mexico, Wyoming; and Armstrong, Alleghany, Beaver, Butler, Fayette, Greene, Mercer, Lawrence, Washington, Bedford, Blair, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Indiana, Jefferson, Somerset, Venango, and Westmoreland Counties in the State of Pennsylvania; and Allegany and Garrett Counties in Maryland, and excluding Alexandria, Virginia.

2. Second Zone. District of Columbia, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, and all of the counties of Pennsylvania and Maryland not included in subsection 1, section 4 of this article, and including Alexandria, Virginia.

3. Third Zone. Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, and Washington.

4. Fourth Zone. Alaska.

Section 5. Overage Points. Prices higher than those filed for delivery to points within the First and Third Zones may be filed by manufacturers for delivery to the following points:

Arizona - All of Arizona except Yuma.

California - Needles, El Portal, and Alturas.

Montana - All of Montana.

Nevada - Boulder City, Ely, McGill, and Las Vegas.

New Mexico - All of New Mexico except Clayton, Dawson, Raton, Artesia, Carlsbad, Roswell, and Hobbs.

ARTICLE VIII -- TRADE PRACTICE RULES

Section 1. Discounts. The terms of sale of all contracting manufacturers shall allow not more than two (2) per cent discount for cash within ten (10) days, and payment for invoices not paid within ten (10) days shall be thirty (30) days net.

Sec. 2. Label Allowances. Where milk is sold to a buyer who provides his own labels, an allowance may be made from the manufacturers' list price of not more than five (5) cents per case ($2\frac{1}{2}$ cents on half cases) on account of labels furnished by the buyer, and if boxes are furnished by the buyer then only the actual cost of boxes shall be allowed, not to exceed six (6) cents per box. No label allowance shall be made on confectioner size.

Sec. 3. Brokerage Allowances. No brokerage allowance shall be made to any purchaser, buying organization, nor to any other person than a broker and the brokerage shall not exceed five (5) cents per case except in instances where it is shown to the satisfaction of the Manufacturers' Committee that higher brokerage rates in certain areas should equitably be allowed.

Sec. 4. Advertising Allowances. No advertising allowance shall be made to any purchaser.

Sec. 5. Transportation Allowances. 1. No allowance to cover trucking or hauling shall be made to any purchaser nor to any carrier owned or controlled by a purchaser. Where a carload lot is sold at carload prices for delivery by truck the entire car shall be invoiced at the time of the first delivery to the buyer, and entire delivery made within three (3) days.

2. No contracting manufacturer shall make deliveries to retail buyers on the basis of a preferential rail freight rate not available to competing distributors.

3. No contracting manufacturer shall absorb freight on deliveries which are made to retailers for the account of wholesale distributors.

Sec. 6. Gifts and Combination Sales. No gift of merchandise shall be made to any class of purchaser in connection with any sale of evaporated milk and no prices shall be quoted by the contracting manufacturer in combination with any other product or commodity, nor shall any discount be allowed him upon the price of any other commodity in consideration of the purchase of evaporated milk.

Sec. 7. Price Changes. All orders shall be taken by each contracting manufacturer subject to price change prior to date of shipment, and all shipments shall be invoiced at prices announced and in effect on date of shipment.

Sec. 8. Miscellaneous Practices. No rebate or concession shall be made from the contracting manufacturer's announced prices to wholesale distributors or the retail trade, either directly or indirectly, and the following practices are prohibited:

1. Purchasing window or shelf space.
2. Shipping goods to the buyer on consignment.
3. Renting space in distributor's warehouse.
4. Gifts or redeemable tokens to wholesale or retail purchasers or employees of purchasers.
5. Applying the carload price to sales of less than the minimum carload quantities as determined by railroad tariffs, except as provided under section 5 of this Article, and section 3 of Article VII.
6. Releasing milk in less than carload quantities from warehouses at below the less than carload prices, except as provided in section 5 of this Article.
7. Redeeming labels from anyone except the ultimate consumer, and redeeming labels at a value in excess of thirty (30) cents per hundred "tall" labels, or fifteen (15) cents per hundred "baby" labels.

Sec. 9. Containers. No contracting manufacturer shall sell evaporated milk in hermetically sealed containers of sizes other than six (6) ounces, fourteen and one-half (14-1/2) ounces, and eight (8) pounds, by weight.

Sec. 10. Price Declines. Upon a decline in the established price of evaporated milk the contracting manufacturer may refund purchasers who are solely wholesale distributors for stocks on hand as follows: On stock in warehouse of wholesale distributor received within the period of ninety (90) days prior to the decline, the contracting manufacturers will pay the wholesale distributor the amount of the decline on the stocks up to but not exceeding two thousand (2,000) cases. In extending this protection no allowance shall be made for any milk not actually in the wholesale warehouse at the time the price change became effective. Where the wholesale distributor has more than one warehouse the two thousand (2,000) case limitation will apply to each warehouse regarded as a separate unit. In dealings between a wholesale distributor and a wholly owned manufacturing subsidiary or affiliate, the adjustment for decline may be made on such basis as the distributor may desire except that the refund on account of the decline shall not be paid on more than a normal 30-day working stock.

Sec. 11. Unfair Advertising. No advertising of evaporated milk shall contain any false or misleading statement in derogation of any other dairy product.

ARTICLE IX -- CHECK-WEIGHING AND TESTING

Section 1. Check-Weighing and Testing. Upon petition to the Producers Committee of two-thirds (2/3) of the producers whose milk is handled by a particular plant, the Producers Committee shall forward to the Secretary such petition together with a plan for securing check-weighing and testing services to all producers whose milk is handled by such plant. If the Secretary approves such plan, he shall notify the manufacturer whose plant is concerned and the producers whose milk is handled by such plant. Such notice shall set forth the plan for providing the aforesaid services and a basis for defraying the expenses thereof, and shall specify a time within which the manufacturer and the aforesaid producers may file protests with the Secretary. Thereafter, the Secretary may, if he finds that the services of check-weighing and testing will tend to effectuate the purpose of this Agreement and of the Act with respect to the producers concerned, and that the basis for defraying the expenses of such services is reasonable, notify the manufacturer whose plant is concerned to uniformly deduct from the sums which would otherwise be due to the producers whose milk is handled by that plant, sums necessary to defray the expenses of such services. The aforesaid manufacturer shall thereafter make such deductions and shall at the time of making payment to producers, transmit such sums to such person, committee, or agency as the Secretary may direct. The making of such deduction shall not be deemed a violation of the provisions of Article VI of this Agreement.

ARTICLE X -- REPORTS, BOOKS AND RECORDS

Section 1. Reports. The contracting manufacturers shall severally, from time to time, upon the request of the Secretary, furnish him such information on and in accordance with forms of reports to be supplied by him as may be necessary for the purposes of (1) assisting the Secretary in the furtherance of his powers and duties with respect to this Agreement and/or (2) enabling the Secretary to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Agreement are being effectuated, such reports to be verified under oath. The Secretary's determination as to the necessity of and justification for the making of such reports, and the information called for thereby, shall be final and conclusive.

Sec. 2. Examinations. The contracting manufacturers also severally agree that, for the same purposes, and/or to enable the Secretary to verify the information furnished him on said forms of report, all their books and records, and the books and records of their affiliates and subsidiaries, pertaining to their evaporated milk business shall during the usual hours of business be subject to the examination of the Secretary. The Secretary's determination as to the necessity of and justification for any such examination shall be final and conclusive.

Sec. 3. Books and Records. The contracting manufacturers and their respective affiliates and subsidiaries shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial condition thereof.

Sec. 4. Confidential Information. All information furnished the Secretary pursuant to this article shall remain confidential in accordance with the applicable General Regulations, Agricultural Adjustment Administration.

Sec. 5. Reports to Managing Agent. Each contracting manufacturer shall report to the Managing Agent his total sales of evaporated milk on continental United States, Alaska and all sales outside the United States and Alaska in the calendar year 1934 and monthly thereafter. The reports for the calendar year 1934 and for each month thereafter, shall be filed with the Managing Agent within fifteen (15) days from the effective date of this Agreement. The Managing Agent shall not disclose to the Manufacturers Committee or to any person, except the Secretary, the sales of any manufacturer.

ARTICLE XI -- APPEALS

Section 1. Appeals. Any manufacturer may petition the Secretary to review any order or decision of the Manufacturers Committee, the Producers Committee, or of any subcommittee thereof. Pending the disposition by the Secretary of any appeal, the parties shall abide by the order or decision of such committee, unless the Secretary shall rule otherwise pending such disposition.

Sec. 2. Action upon Appeal. Any such petition must be filed in

writing setting forth the facts upon which it is based. The Secretary shall, if the facts stated show reasonable grounds for appeal, grant such petition and may revise or change in any manner any order or decision from which an appeal is taken.

ARTICLE XII -- LICENSING

Section 1. Licensing. The contracting manufacturers hereby apply for and consent to licensing by the Secretary. Such license shall be in accordance with applicable regulations heretofore and hereafter prescribed by the Secretary and approved by the President, and shall be subject to the rights and powers of the Secretary, from time to time, to modify or amend any license issued pursuant to the foregoing.

ARTICLE XIII -- EFFECTIVE TIME AND TERMINATION

Section 1. Effective Time. This Agreement shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the following ways:

1. The Secretary may at any time terminate this Agreement, as to all parties hereto, by giving at least one (1) day's notice by means of a press release or in any other manner which the Secretary may determine.

2. The Secretary may at any time terminate this Agreement, as to any party signatory hereto, by giving at least one (1) day's notice by depositing the same in the mail addressed to such party at his last known address.

3. The Secretary shall terminate this Agreement upon the request of (1) seventy-five (75) per cent of the contracting manufacturers, such percentage to be measured by the volume of evaporated milk sold during the previous calendar year, or (2) seventy-five (75) per cent in number of the contracting manufacturers by giving notice in the same manner as provided in paragraph number 1 of this section.

4. This Agreement shall in any event terminate whenever the provisions of the Act authorizing it, cease to be in effect.

Sec. 2. Effect of Termination or Amendment. Unless otherwise expressly provided in the notice of termination or in the amendment, no termination or amendment of this Agreement shall either (a) affect, waive, or terminate any right, duty, obligation or liability which shall have arisen or may hereafter arise in connection with, by virtue of, or pursuant to any provision of this Agreement (whether or not such right, duty, obligation, or liability has finally accrued and been ascertained at the effective time of such termination or amendment, and whether or not such provision is amended or deleted by such amendment); (b) release or forgive any violation of this Agreement, occurring prior to the effective time of such termination or amendment (whether or not such

violation is then known to the Secretary); or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

Sec. 3. Continuing Power and Duty. If, upon the termination of this Agreement, there are any obligations arising thereunder, the final accrual or ascertainment of which requires further acts by any party hereto or any Committee hereunder, the power and/or duty to perform such further acts shall continue notwithstanding such termination: Provided, That any such acts required, under the terms of this Agreement to be performed by any Committee hereunder, shall be performed by the members of such Committee functioning at the effective time of such termination, or, if the Secretary shall so direct, by such other person, persons or agency as the Secretary may designate.

ARTICLE XIV -- DURATION OF IMMUNITIES

Section 1. Immunities. The benefits, privileges and immunities conferred by virtue of this Agreement shall cease upon its termination, except with respect to acts done under and during the existence of this Agreement; and the benefits, privileges and immunities conferred by this Agreement upon any party signatory hereto shall cease upon its termination as to such party except with respect to acts done under and during the existence of this Agreement.

ARTICLE XV--- AMENDMENTS

Section 1. Proposals. Amendments to this Agreement may at any time be proposed by any party to this Agreement, any Committee created hereunder, or by the Secretary.

Sec. 2. Notice. Notice of such proposed amendment shall be given to all contracting manufacturers either by publishing a summary thereof in a newspaper of general circulation in the Industry, or by placing in the mail a copy thereof addressed to each manufacturer at his last known address, except that the Secretary may give notice of such proposed amendment by sending copies thereof to the Manufacturers Committee and to the Producers Committee.

Sec. 3. Approval. Upon the written approval of such proposed amendment by (1) contracting manufacturers who distributed not less than seventy-five (75) per cent of the total quantity of evaporated milk manufactured by all contracting manufacturers during the calendar year next preceding, and (2) seventy-five (75) per cent in number of contracting manufacturers, the Secretary may approve such amendment, in which case it shall become effective at such time as the Secretary shall designate; but unless the Secretary shall find that the subject matter of the proposed amendment was included within the scope of the hearing held upon the Agreement, or a prior amendment thereto,

pursuant to the Act, or if contracting manufacturers who (1) during the preceding calendar year manufactured twenty-five (25) per cent of the evaporated milk manufactured by all contracting manufacturers or (2) constitute twenty-five (25) per cent in number of all contracting manufacturers shall so request, the Secretary shall not approve any such amendment unless and until due notice and opportunity for hearing have been afforded in accordance with applicable General Regulations of the Agricultural Adjustment Administration.

ARTICLE XVI -- COUNTERPARTS

Section 1. Counterparts. This Agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

ARTICLE XVII -- ADDITIONAL PARTIES

Section 1. Additional Parties. After this Agreement first takes effect any manufacturer not a party to this Agreement, may become a party thereto if a counterpart thereof is executed by him and by the Secretary. This Agreement shall take effect as to such new contracting party at such time as the Secretary may declare above his signature attached to such counterpart, and the benefits, privileges, and immunities conferred by this Agreement shall then be effective as to such contracting party.

ARTICLE XVIII -- AGENTS

Section 1. Agents. The Secretary may by designation in writing, name any person or persons, including officers or employees of the Government, or Bureaus or Divisions of the Department of Agriculture, to act as his agents or agencies in connection with any of the provisions of this Marketing Agreement, and he may authorize any such agent or agency to designate or appoint persons, including officers or employees of the Department of Agriculture, to exercise or perform any or all of the powers and functions delegated to them as may be deemed necessary or advisable to accomplish the proper execution or performance of such powers and functions. Such agents may attend meetings of any Committee created under this Agreement, and shall be notified of such meetings.

ARTICLE XIX -- ANTITRUST LAWS

Section 1. Antitrust Laws. Any exemption from the antitrust laws, and/or any validation of any acts or things which would have

been unlawful, which may result, from the execution of this Agreement by the Secretary, shall not extend or be construed to extend further than is absolutely necessary for the purpose of carrying out the provisions of this Agreement.

ARTICLE XX -- DEROGATION

Section 1. Derogation. Nothing contained in this Agreement is or shall be construed to be in derogation or modification of the rights of the Secretary, or of the United States (1) to exercise any powers granted by the Act or otherwise and/or (2) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

ARTICLE XXI -- SEPARABILITY

Section 1. Separability. If any provision of this Agreement is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this Agreement and/or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

ARTICLE XXII -- SIGNATURE OF PARTIES

In witness thereof, the contracting parties, acting under the provisions of the Agricultural Adjustment Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

Whereas, it is provided by section 8 of the Act, as amended, as follows:

"Sec. 8. In order to effectuate the declared policy, the Secretary of Agriculture shall have power - * * *

"(2) After due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, in the current of or in competition with, or so as to burden, obstruct, or in any way affect, interstate or foreign commerce. The making of any such agreement shall not be held to be in violation of any of the anti-trust laws of the United States, and any such agreement shall be deemed to be lawful: Provided, That no such agreement shall remain in force after the termination of this Act * * * * *."

And --

Whereas, due notice and opportunity for hearing with respect to this Marketing Agreement have been afforded pursuant to the provisions of the Act and the regulations issued thereunder; and

Whereas, the undersigned finds that it is necessary to execute this Marketing Agreement pursuant to section 8 (2) of the Act and that the terms and provisions hereof are necessary in order to effectuate the purposes of the Act;

And

Whereas, the undersigned finds that this Marketing Agreement and the terms and provisions hereof are in accordance with the provisions of section 8 (2) of the Act and tend to effectuate the purpose of the Act;

and

Whereas, The undersigned finds that the handling of the commodity, and the products thereof, covered by this Marketing Agreement, is in the current of interstate and/or foreign commerce, and in competition with, and burdens, obstructs and affects interstate and/or foreign commerce since the portion thereof which occurs within the bounds of a single State affects and actually and potentially competes with the handling of commodities and products which occurs between or among several States, and since the commodity, and the products thereof, covered by this Marketing Agreement cannot be separated into interstate and intrastate portions, the supply and the handling thereof being inextricably commingled, so that it is impossible to regulate the interstate handling without also regulating the intrastate handling, and the failure to regulate the latter will defeat and obstruct the purposes of the Act with respect to the former.

Now, therefore, _____,
_____, Secretary of Agriculture,
acting under the provisions of the Agricultural Adjustment Act, for the purposes and within the limitations therein contained, and not otherwise, does hereby execute this Agreement in duplicate under his hand and the official seal of the Department of Agriculture, in the City of Washington, D. C., on this _____ day of _____, 1935, and pursuant to the provisions hereof, declare this Agreement to be effective on and after _____ eastern standard time, _____, 1935.

Secretary of Agriculture

AUTHORIZATION TO CORRECT TYPOGRAPHICAL ERRORS
TO BE EXECUTED BY ALL SIGNERS

We, the undersigned, hereby authorize J. W. Tapp to consent on our behalf to the correction of any typographical errors which the Agricultural Adjustment Administration may consider it advisable to make in the Marketing Agreement for the Evaporated Milk Industry.

Date

Firm Name

By _____

Name

Title-SEAL
(If corporation)

Corporations only

CERTIFICATE OF RESOLUTION

At a duly convened meeting of the Board of Directors of

held at

on the _____ day of

_____, 1935, the following resolution was adopted:

RESOLVED, that _____
shall become a party to the Marketing Agreement for the Evaporated Milk Industry,
as read and explained to the meeting, and it is further RESOLVED, that

(title)

and _____ (title), be
and hereby are authorized and directed to sign, execute, and deliver a counter-
part of said Agreement attached hereto, to the Secretary of Agriculture, together
with an authorization naming J. W. Tapp to correct typographical errors.

I, _____, Secretary of

_____ do hereby certify that
this is a true and correct copy of a resolution adopted at the above-named
meeting, as said resolution appears in the minutes thereof.

Address of firm

SEAL

AND SEAL AT SIGNATURE LINE IN BODY OF CONTRACT

